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OFFICE CONSOLIDATION

CODIFICATION ADMINISTRATIVE

## Commodity Futures Act

## Loi sur les contrats à terme sur marchandises

Revised Statutes of Ontario, 1990  
Chapter C.20

Lois refondues de l'Ontario de 1990  
Chapitre C.20

and the following Regulation (as amended):

et le règlement suivant (tel qu'il est modifié) :

General (R.R.O. 1990, Reg. 90)



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## CHAPTER C.20

### Commodity Futures Act

(NOTE: By Order in Council made February 3, 1993, the powers and duties of the Minister were transferred to the Minister of Finance.)

#### Definitions

#### 1. In this Act,

“adviser” means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in contracts; (“conseiller”)

“clearing house” means an association or organization, whether incorporated or unincorporated, or part of a commodity futures exchange through which trades in contracts entered into on such exchange are cleared; (“chambre de compensation”)

“Commission” means the Ontario Securities Commission; (“Commission”)

“commodity” means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class thereof, designated as a commodity under the regulations; (“marchandise”)

“commodity futures contract” means a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in such exchange’s by-laws, rules or regulations; (“contrat à terme sur marchandises”)

“commodity futures exchange” means an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the physical facilities necessary for the trading of contracts by open auction; (“Bourse de contrats à terme sur marchandises”)

## CHAPITRE C.20

### Loi sur les contrats à terme sur marchandises

(REMARQUE : Les attributions du ministre ont été transférées au ministre des Finances par décret du 3 février 1993).

#### 1. Les définitions qui suivent s’appliquent à la présente loi.

#### Définitions

«arbitragiste en couverture» Personne ou compagnie qui exerce des activités commerciales, notamment une entreprise agricole, minière, forestière ou une entreprise de transformation ou de fabrication, et qui, du fait de ces activités, court le risque d’une fluctuation du prix d’une marchandise et compense ce risque en effectuant des opérations sur des contrats portant sur cette marchandise ou des marchandises connexes, qu’une opération particulière soit effectuée à cette fin ou non; toutefois, une personne ou une compagnie n’est arbitragiste en couverture qu’à l’égard d’opérations sur contrats visant cette marchandise ou des marchandises connexes. («hedger»)

«Bourse de contrats à terme sur marchandises» Association ou organisation, constituée en personne morale ou non, ayant pour objet de fournir les installations nécessaires aux opérations sur contrats aux enchères ouvertes. («commodity futures exchange»)

«chambre de compensation» Association ou organisation, constituée en personne morale ou non, ou partie d’une Bourse de contrats à terme et sur marchandises où sont compensées les opérations sur contrats qui sont conclus dans cette Bourse. («clearing house»)

«Commission» La Commission des valeurs mobilières de l’Ontario. («Commission»)

«compagnie» Personne morale, ou association, syndicat financier ou autre organisation constitué en personne morale. («company»)

«conseiller» Personne ou compagnie dont l’activité commerciale consiste à conseiller autrui en matière d’opérations sur contrats

“commodity futures option” means a right, acquired for a consideration, to assume a long or short position in relation to a commodity futures contract at a specified price and within a specified period of time and any other option of which the subject is a commodity futures contract; (“option sur contrat à terme sur marchandises”)

“company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization; (“compagnie”)

“contract” means any commodity futures contract and any commodity futures option; (“contrat”)

“dealer” means a person or company that trades in contracts in the capacity of principal or agent; (“courtier”)

“decision” means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations; (“décision”)

“declaration date”, where used in relation to a commodity futures option, means the date on which the option expires; (“date d’échéance”)

“Director” means the Director or any Deputy Director of the Commission; (“directeur”)

“floor trader” means an individual who is employed by a dealer for the purpose of entering into contracts on the floor of a commodity futures exchange on behalf of such dealer; (“négociateur en Bourse”)

“hedger” means a person or company who carries on agricultural, mining, forestry, processing, manufacturing or other commercial activities and, as a necessary part of these activities, becomes exposed from time to time to a risk attendant upon fluctuations in the price of a commodity and offsets that risk through trading in contracts for the commodity or related commodities whether or not any particular trade is effected for that purpose, but a person or company is a hedger only as to trades in contracts for such commodity or related commodities; (“arbitragiste en couverture”)

“liquidating trade” means effecting settlement of a commodity futures contract,

- (a) in relation to a long position, by assuming an offsetting short position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month,

et qui se présente comme exerçant une telle activité commerciale. («adviser»)

«contrat» Tout contrat à terme sur marchandises et toute option sur contrat à terme sur marchandises. («contract»)

«contrat à terme sur marchandises» Contrat par lequel une partie s’engage à faire la livraison ou à prendre livraison au cours d’un mois futur donné, d’une quantité déterminée d’une marchandise, d’une qualité, d’une catégorie ou d’une dimension précisés, au prix convenu au moment de la conclusion du contrat dans une Bourse de contrats à terme sur marchandises, conformément aux conditions normalisées que prévoient les règlements administratifs, les règles ou les règlements de cette Bourse. («commodity futures contract»)

«contrat à terme sur marchandises en cours» Obligation en cours découlant d’un contrat à terme sur marchandises non encore liquidé au moyen de l’offre et de la réception des marchandises ou d’un acte qui établit le titre ou le droit sur ces marchandises, ou au moyen d’une liquidation. («open commodity futures contract»)

«cours» En matière de contrats à terme sur marchandises, s’entend du prix utilisé par une Bourse de contrats à terme sur marchandises ou par sa chambre de compensation pour déterminer, chaque jour, les gains nets ou les pertes nettes dans la valeur des contrats à terme sur marchandises en cours. («settlement price»)

«courtier» Personne ou compagnie qui effectue des opérations sur contrats pour son propre compte ou en qualité de mandataire. («dealer»)

«date d’échéance» En matière d’option sur contrat à terme sur marchandises, s’entend de la date d’expiration de l’option. («declaration date»)

«décision» Directive, décision, ordre, ordonnance ou autre exigence formulés en vertu d’un pouvoir ou d’un droit conféré par la présente loi ou les règlements. («decision»)

«directeur» Le directeur ou un directeur adjoint de la Commission. («Director»)

«dirigeant» Le président ou un vice-président du conseil d’administration, le président, le vice-président, le secrétaire, le secrétaire adjoint, le trésorier, le trésorier adjoint ou le directeur général d’une compagnie, ou toute autre personne nommée dirigeant d’une compagnie aux termes d’un règlement administratif ou d’un autre acte de même nature. («officer»)

(b) in relation to a short position, by assuming an offsetting long position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month; ("liquidation")

"long position", where used in relation to a commodity futures contract, means to be under an obligation to take delivery; ("position acheteur")

"Minister" means the Minister of Financial Institutions or other member of the Executive Council to whom the administration of this Act may be assigned; ("ministre")

"misrepresentation" means an untrue statement of a material fact or an omission to state a material fact; ("présentation inexacte des faits")

"officer" means the chair or any vice-chair of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority; ("dirigeant")

"open commodity futures contract" means an outstanding obligation under a commodity futures contract for which settlement has not been effected by the tender and receipt of the commodity or of an instrument evidencing title or the right to such commodity or by a liquidating trade; ("contrat à terme sur marchandises en cours")

"open interest", where used in relation to commodity futures contracts, means the total outstanding long positions or the total outstanding short positions, for each delivery month and in aggregate, in commodity futures contracts relating to a particular commodity entered into on a commodity futures exchange; ("intérêts en cours")

"person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative; ("personne")

"premium", where used in relation to a commodity futures option, means the consideration for which the option is acquired; ("prix de l'option")

"register" means register under this Act, and "registered" has a corresponding meaning; ("inscrire", "inscrit")

"registrant" means a person or company registered or required to be registered under this Act; ("personne ou compagnie inscrite")

«inscrire» Inscrire en application de la présente loi; «inscrit» a un sens correspondant. («register», «registered»)

«intérêts en cours» En matière de contrats à terme sur marchandises, s'entend du total des positions acheteur ou du total des positions vendeur en cours, pour chaque mois de livraison et pris globalement, à l'égard des contrats à terme sur marchandises portant sur une marchandise en particulier et conclus dans une Bourse de contrats à terme sur marchandises. («open interest»)

«liquidation» Le fait de liquider un contrat à terme sur marchandises :

- a) à l'égard d'une position acheteur, en prenant une position vendeur compensatoire au moyen d'un contrat conclu dans la même Bourse de contrats à terme sur marchandises portant sur une même quantité d'une marchandise de même qualité, catégorie ou dimension, et livrable au cours du même mois futur donné,
- b) à l'égard d'une position vendeur, en prenant une position acheteur compensatoire au moyen d'un contrat conclu dans la même Bourse de contrats à terme sur marchandises et portant sur une même quantité d'une marchandise de même qualité, catégorie ou dimension, et livrable au cours du même mois futur donné. («liquidating trade»)

«marchandise» À l'état brut ou transformé, les produits agricoles, produits forestiers, produits de la mer, minerais, métaux, hydrocarbures, devises ou pierres précieuses ou autres gemmes, ainsi que les biens, objets, services, droits ou intérêts, ou catégories de ceux-ci, désignés comme marchandises dans les règlements. («commodity»)

«ministre» Le ministre des Institutions financières, ou un autre membre du Conseil exécutif chargé de l'application de la présente loi. («Minister»)

«négociateur en Bourse» Particulier employé par un courtier aux fins de conclure des contrats sur le parquet d'une Bourse de contrats à terme sur marchandises pour le compte de ce courtier. («floor trader»)

«opération» S'entend en outre :

- a) de la conclusion de contrats, par quiconque pour son propre compte ou par un mandataire,
- b) du fait d'agir en qualité de négociateur en Bourse,
- c) de la réception, par une personne ou une compagnie inscrite, de l'ordre d'effectuer une transaction sur un contrat,

“regulations” means the regulations made under this Act; (“règlements”)

“salesperson” means an individual who is employed by a dealer for the purpose of making trades in contracts on behalf of such dealer; (“représentant”)

“Secretary” means the Secretary of the Commission or any individual designated by the Commission to act in the capacity of Secretary; (“secrétaire”)

“security” means a security within the meaning of the *Securities Act*; (“valeur mobilière”)

“settlement price”, where used in relation to a commodity futures contract, means the price which is used by a commodity futures exchange or its clearing house to determine, daily, the net gains or losses in the value of open commodity futures contracts; (“cours”)

“short position”, where used in relation to a commodity futures contract, means to be under an obligation to make delivery; (“position vendeur”)

“striking price”, where used in relation to a commodity futures option, means the price at which the purchaser of the option has the right to assume a long or short position in relation to the commodity futures contract that is the subject of the option; (“prix de levée”)

“trade” or “trading” includes,

- (a) entering into contracts, whether as principal or agent,
- (b) acting as a floor trader,
- (c) any receipt by a registrant of an order to effect a transaction in a contract,
- (d) any assignment or other disposition of rights under a contract except a disposition arising from the death of an individual enjoying rights under a contract, and
- (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of the foregoing. (“opération”) R.S.O. 1980, c. 78, s. 1.

d) de l'aliénation, notamment par cession, des droits issus d'un contrat, sauf l'aliénation résultant du décès du particulier qui jouissait de droits en vertu d'un contrat,

e) d'un acte, de la publicité, de la sollicitation, de la conduite ou de la négociation visant directement ou indirectement la réalisation des objets susmentionnés. («trade», «trading»)

«option sur contrat à terme sur marchandises» Droit, acquis moyennant contrepartie, de prendre la position vendeur ou la position acheteur à l'égard d'un contrat à terme sur marchandises à un prix convenu et dans un délai précisé; s'entend en outre de toute autre option ayant pour objet un contrat à terme sur marchandises. («commodity futures option»)

«personne» Particulier, société en nom collectif, ou association, syndicat financier ou organisation non constituées en personnes morales, fiducie, fiduciaire, exécuteur testamentaire, administrateur ou autre ayant droit. («person»)

«personne ou compagnie inscrite» Personne ou compagnie inscrite ou qui doit être inscrite aux termes de la présente loi. («registrant»)

«position acheteur» Dans le cadre d'un contrat à terme sur marchandises, s'entend du fait d'avoir l'obligation de prendre livraison. («long position»)

«position vendeur» Dans le cadre d'un contrat à terme sur marchandises, s'entend du fait d'avoir l'obligation de faire la livraison. («short position»)

«présentation inexacte des faits» Déclaration erronée d'un fait important ou omission de déclarer un fait important. («misrepresentation»)

«prix de l'option» En matière d'option sur contrat à terme sur marchandises, s'entend de la contrepartie moyennant laquelle l'option est acquise. («premium»)

«prix de levée» En matière d'option sur contrat à terme sur marchandises, s'entend du prix auquel l'acheteur de l'option a le droit de prendre une position acheteur ou une position vendeur à l'égard du contrat à terme sur marchandises sur lequel a porté l'option. («striking price»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«représentant» Particulier employé par un courtier aux fins d'effectuer des opérations

## PART I COMMODITY FUTURES ADVISORY BOARD

Commodity  
Futures Ad-  
visory Board  
continued

2. (1) The board known in English as The Commodity Futures Advisory Board and in French as Conseil consultatif sur la vente à terme de marchandises is continued. R.S.O. 1980, c. 78, s. 2 (1), *part, revised*.

Members

(2) The Board shall consist of not more than five members, all of whom shall be appointed by the Lieutenant Governor in Council. R.S.O. 1980, c. 78, s. 2 (1), *part*.

Chair

(3) The Lieutenant Governor in Council may designate a member of the Board to be its chair. R.S.O. 1980, c. 78, s. 2 (1), *part*.

Meetings

(4) The Board shall meet at the call of the Commission.

Duties

(5) The Board shall, when requested by the Commission, consult with and advise the Commission concerning,

- (a) developments in the nature of contracts and manner of trading; and
- (b) the influence of trading in contracts on the economy of Ontario.

Remuner-  
ation

(6) The members of the Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a daily allowance to be payable to each member, and members are entitled to their reasonable and necessary expenses, as certified by the chair, for attending at meetings and transacting the business of the Board. R.S.O. 1980, c. 78, s. 2 (2-4).

## PART II APPOINTMENT OF EXPERTS

Appointment  
of experts

3. (1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submissions  
to experts

(2) The Commission may submit any agreement, contract, financial statement, report or other document to one or more experts appointed under subsection (1) for examin-

sur contrats pour le compte de ce courtier. («salesperson»)

«secrétaire» Le secrétaire de la Commission ou tout particulier nommé par cette dernière pour remplir les fonctions de secrétaire. («Secretary»)

«valeur mobilière» Valeur mobilière au sens de la *Loi sur les valeurs mobilières*. («security») L.R.O. 1980, chap. 78, art. 1.

## PARTIE I CONSEIL CONSULTATIF SUR LA VENTE À TERME DE MARCHANDISES

2. (1) Est maintenu le conseil nommé Conseil consultatif sur la vente à terme de marchandises en français et The Commodity Futures Advisory Board en anglais. L.R.O. 1980, chap. 78, par. 2 (1), *en partie, révisé*.

Maintien du  
Conseil  
consultatif  
sur la vente à  
terme de  
marchandises

(2) Le Conseil est composé d'au plus cinq membres nommés par le lieutenant-gouverneur en conseil. L.R.O. 1980, chap. 78, par. 2 (1), *en partie*.

Membres

(3) Le lieutenant-gouverneur en conseil peut nommer l'un des membres du Conseil à la présidence. L.R.O. 1980, chap. 78, par. 2 (1), *en partie*.

Présidence

(4) La Commission convoque les réunions du Conseil.

Réunions

(5) À la demande de la Commission, le Conseil confère avec la Commission et la conseille sur :

Fonctions

- a) les éléments nouveaux dans la nature des contrats et la manière d'effectuer des opérations;
- b) l'influence des opérations sur contrats sur l'économie de l'Ontario.

(6) Les membres du Conseil ne reçoivent aucune rémunération. Toutefois, le lieutenant-gouverneur en conseil peut fixer une indemnité journalière payable à chaque membre. Les membres ont par ailleurs droit au remboursement des frais raisonnables et nécessaires, attestés par le président, qu'ils ont engagés pour assister aux réunions et poursuivre les activités du Conseil. L.R.O. 1980, chap. 78, par. 2 (2) à (4).

Rémuné-  
ration

## PARTIE II NOMINATION D'EXPERTS

3. (1) La Commission peut nommer un ou plusieurs experts pour l'aider de la manière qu'elle juge opportune.

Nomination  
d'experts

(2) La Commission peut soumettre à l'examen de l'un ou de plusieurs des experts nommés en vertu du paragraphe (1) tout accord, contrat, état financier, rapport ou autre docu-

Consultation  
des experts

ation, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 7 (3) and (4) apply with necessary modifications.

Payment of  
experts

(3) An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1980, c. 78, s. 3.

### PART III ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

Notification  
of decision

4. (1) The Director shall forthwith notify the Commission of every decision refusing registration under section 23 or refusing to accept the form of a contract under section 36 and the Commission may, within thirty days of the decision, notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision.

Review of  
Director's  
decisions

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on  
review

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

Stay

(4) Despite the fact that a person or company requests a hearing and review under subsection (2), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. R.S.O. 1980, c. 78, s. 4.

Appeal

5. (1) Any person or company directly affected by a decision of the Commission may appeal to the Divisional Court.

Stay

(2) Despite the fact that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal. R.S.O. 1980, c. 78, s. 5 (1, 2).

ment. La Commission est également investie du pouvoir, tel qu'il lui est attribué, d'assigner des témoins et de les contraindre à comparaître devant l'expert et à produire tout document, dossier et objet. Les paragraphes 7 (3) et (4) s'appliquent avec les adaptations nécessaires.

Rémunération

(3) L'expert nommé en vertu du paragraphe (1) reçoit la rémunération et les indemnités que peut fixer le lieutenant-gouverneur en conseil. L.R.O. 1980, chap. 78, art. 3.

### PARTIE III INSTANCES ADMINISTRATIVES, RÉVISIONS ET APPELS

Communi-  
cation des  
décisions

4. (1) Le directeur communique sans délai à la Commission toute décision selon laquelle il refuse une inscription aux termes de l'article 23 ou refuse d'approuver la forme d'un contrat conformément à l'article 36. La Commission peut, dans les trente jours de la décision, aviser le directeur et toute personne ou compagnie directement touchée de son intention de tenir une audience pour réviser la décision.

Révision des  
décisions du  
directeur

(2) Toute personne ou compagnie directement touchée par une décision du directeur peut, au moyen d'un avis écrit envoyé par courrier recommandé à la Commission dans les trente jours de la date de mise à la poste de l'avis de la décision, demander une audience et une révision de cette décision, et y avoir droit.

Pouvoir

(3) À l'issue de l'audience et de la révision, la Commission peut, au moyen d'une ordonnance, confirmer la décision faisant l'objet de la révision ou rendre toute autre décision qu'elle juge indiquée.

Sursis  
d'exécution

(4) La demande par une personne ou une compagnie en vue d'obtenir une audience et une révision en vertu du paragraphe (2) n'a pas pour effet de suspendre l'exécution de la décision qui fait l'objet de la révision. La Commission peut toutefois accorder un sursis d'exécution en attendant l'issue de l'audience et de la révision. L.R.O. 1980, chap. 78, art. 4.

Appel

5. (1) Toute personne ou compagnie directement touchée par une décision de la Commission peut en interjeter appel devant la Cour divisionnaire.

Sursis  
d'exécution

(2) L'appel interjeté en vertu du présent article n'a pas pour effet de suspendre l'exécution de la décision qui en fait l'objet. La Commission ou la Cour divisionnaire peut toutefois accorder un sursis d'exécution en attendant l'issue de l'appel. L.R.O. 1980, chap. 78, par. 5 (1) et (2).

Certification  
of documents

(3) The Secretary shall certify to the registrar of the Ontario Court (General Division) at Toronto,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal. R.S.O. 1980, c. 78, s. 5 (3), *revised*.

Minister entitled to be heard

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

Further decisions

(6) Despite an order of the court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. R.S.O. 1980, c. 78, s. 5 (4-6).

Secretary

6. (1) The Secretary may,

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
- (c) certify under his or her hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 5 (3); and
- (d) exercise such other powers as are vested in him or her by this Act or the regulations and perform such other duties as are imposed upon him or her by this Act or the regulations or by the Commission.

(3) Le secrétaire atteste à l'intention du greffier de la Cour de l'Ontario (Division générale) à Toronto :

- a) la décision qui a été révisée par la Commission;
- b) la décision de la Commission, motifs à l'appui;
- c) le dossier de l'instance tenue devant la Commission;
- d) toutes les observations écrites présentées à la Commission et tout autre document pertinent à l'appel. L.R.O. 1980, chap. 78, par. 5 (3), *révisé*.

(4) Le ministre a le droit d'être entendu, notamment par l'entremise d'un avocat, lors de l'audition de l'appel interjeté en vertu du présent article.

(5) Saisi de l'appel interjeté en vertu du présent article, le tribunal peut, au moyen d'une ordonnance, enjoindre à la Commission de rendre la décision ou de prendre toute autre mesure qui relève de sa compétence en vertu de la présente loi ou des règlements et que le tribunal juge indiquée, eu égard aux documents et aux observations qui lui ont été présentés ainsi qu'à la présente loi et aux règlements. La Commission rend la décision ou prend la mesure en conséquence.

(6) Malgré une ordonnance rendue par le tribunal en appel, la Commission peut rendre toute autre décision si des faits nouveaux lui sont présentés ou s'il se produit un changement important dans les circonstances entourant l'affaire. Cette décision est subordonnée au présent article. L.R.O. 1980, chap. 78, par. 5 (4) à (6).

6. (1) Le secrétaire peut :

- a) accepter, au nom de la Commission, la signification de tout avis ou document;
- b) avec l'autorisation de la Commission, signer toute décision rendue par cette dernière à l'issue d'une audience;
- c) attester sous sa signature toute décision rendue par la Commission, ou tout document, dossier ou objet ayant servi relativement à une audience de la Commission, dans le cas où l'attestation est nécessaire à une fin autre que celle prévue au paragraphe 5 (3);
- d) exercer tous les autres pouvoirs que la présente loi ou les règlements lui confèrent, et s'acquitter des autres fonctions que lui imposent la présente loi, les règlements ou la Commission.

Attestation  
des  
documents

Droit du ministre d'être entendu

Pouvoirs du tribunal

Autres décisions

Pouvoirs du secrétaire

Certification  
by Secretary

(2) A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1980, c. 78, s. 6.

#### PART IV INVESTIGATIONS

Investigation  
order

7. (1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investigation  
order

(2) The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in contracts, and in such order shall determine and prescribe the scope of the investigation.

Scope of  
investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection

Attestation  
du secrétaire

(2) L'attestation qui se présente comme étant signée par le secrétaire est admissible en preuve, sans qu'il soit nécessaire de faire la preuve de la qualité officielle ou de l'authenticité de la signature, dans les actions, instances ou poursuites, dans la mesure où elle est pertinente. L.R.O. 1980, chap. 78, art. 6.

#### PARTIE IV ENQUÊTES

Ordonnance  
en vue d'une  
enquête

7. (1) Dans le cas où, sur la foi d'une déclaration faite sous serment, la Commission a lieu de croire qu'une personne ou une compagnie :

- a) soit a contrevenu à une disposition de la présente loi ou des règlements;
- b) soit a commis une infraction au *Code criminel* (Canada) à l'occasion d'une transaction portant sur des contrats,

elle peut, au moyen d'une ordonnance, nommer une personne pour faire toute enquête qu'elle juge opportune pour l'application régulière de la présente loi; par la même ordonnance, la Commission définit la portée de l'enquête.

Ordonnance  
en vue d'une  
enquête

(2) La Commission peut, au moyen d'une ordonnance, nommer une personne pour faire toute enquête qu'elle juge opportune pour l'application régulière de la présente loi, ou sur toute question relative aux opérations sur contrats; par la même ordonnance, la Commission définit la portée de l'enquête.

Portée de  
l'enquête

(3) Aux fins de l'enquête ordonnée en vertu du présent article, la personne qui en est chargée peut examiner :

- a) les affaires de la personne ou de la compagnie faisant l'objet de l'enquête, de même que les livres, les papiers, les documents, la correspondance, les communications, les négociations, les transactions, les enquêtes, les prêts, les emprunts et les paiements, effectués en faveur de cette personne ou compagnie, par cette dernière, pour son compte ou se rapportant à cette personne ou compagnie, ainsi que les biens, l'actif ou les objets acquis ou aliénés, en totalité ou en partie, par cette personne ou compagnie ou par toute autre personne ou compagnie agissant pour son compte ou à titre de mandataire de cette personne ou compagnie, ou dont l'une d'elles est propriétaire en totalité ou en partie;
- b) les biens détenus, le passif, les dettes, les engagements et les obligations existants, la situation financière ou autre prévalant à une époque quelconque relativement à cette personne ou compa-

with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, securities or other property, the transfer, negotiation or holding of securities, interlocking directorates, common control, undue influence or control or any other relationship. R.S.O. 1980, c. 78, s. 7 (1-3).

gnie, le rapport qui peut exister ou a existé, à une époque quelconque, entre cette personne ou compagnie et toute autre personne ou compagnie, notamment en raison de placements, de commissions promises, garanties ou payées, d'intérêts détenus ou acquis, de prêts ou d'emprunts d'argent, de valeurs mobilières ou d'autres biens, du transfert ou de la détention de valeurs mobilières, ou démarches à leur égard, de directoirats de liaison, du contrôle commun, de l'abus d'influence ou du contrôle ou tout autre rapport. L.R.O. 1980, chap. 78, par. 7 (1) à (3).

Powers to  
summon wit-  
nesses and  
require  
production

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Ontario Court (General Division) for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in the person's custody or possession makes the person liable to be committed for contempt by a judge of the Ontario Court (General Division) as if in breach of an order or judgment of the court provided that no provision of the *Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. R.S.O. 1980, c. 78, s. 7 (4), revised.

(4) La personne chargée de l'enquête prévue au présent article est investie des mêmes pouvoirs que ceux conférés à la Cour de l'Ontario (Division générale) lors de l'instruction d'actions civiles, pour assigner et contraindre des témoins à comparaître, les obliger à témoigner, que ce soit sous serment ou non, et à produire des documents, des dossiers et des objets dont elle a la garde ou la possession, si une personne omet ou refuse de comparaître, de répondre aux questions ou de produire ces documents, dossiers ou objets, elle est passible d'une peine d'emprisonnement pour outrage au tribunal, prononcée par un juge de la Cour de l'Ontario (Division générale) comme s'il s'agissait de l'inobservation d'une ordonnance ou d'un jugement de ce tribunal, pourvu qu'une disposition de la *Loi sur la preuve* ne soustraie pas une banque ou l'un de ses dirigeants ou employés à l'application du présent article. L.R.O. 1980, chap. 78, par. 7 (4), révisé.

Pouvoirs  
d'assigner  
des témoins  
et d'exiger la  
production  
de pièces

Counsel

(5) A person giving evidence at an investigation under this section may be represented by counsel.

(5) La personne qui témoigne au cours de l'enquête prévue au présent article peut être représentée par un avocat.

Avocat

Seizure of  
property

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities, contracts or other property of the person or company whose affairs are being investigated.

(6) En cas d'enquête ordonnée en vertu du présent article, la personne qui en est chargée peut saisir les documents, dossiers, valeurs mobilières, contrats ou autres biens de la personne ou de la compagnie dont les affaires font l'objet de l'enquête.

Saisie de  
biens

Inspection of  
seized  
documents

(7) Where any documents, records, securities, contracts or other property are seized under subsection (6), such documents, records, securities, contracts or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by such person or company to the person appointed to make the investigation.

(7) En cas de saisie, effectuée en vertu du paragraphe (6), de documents, de dossiers, de valeurs mobilières, de contrats ou d'autres biens, ceux-ci sont mis à la disposition de la personne ou de la compagnie entre les mains de laquelle ils ont été saisis, à des fins d'examen et de reproduction, à la date, à l'heure et au lieu convenus de part et d'autre, si cette personne ou compagnie en fait la demande à la personne chargée de l'enquête.

Examen des  
documents  
saisis

Accountants  
and experts

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the

(8) En cas d'enquête ordonnée en vertu du présent article, la Commission peut nommer un comptable ou un autre expert pour examiner les documents, les dossiers, les biens et les questions qui concernent la personne ou la

Comptables  
et experts

person or company whose affairs are being investigated.

Report of investigation

(9) Every person appointed under subsection (1), (2) or (8) shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his or her possession relating to the investigation. R.S.O. 1980, c. 78, s. 7 (5-9).

Report to Minister

8. Where, upon the report of an investigation made under section 7, it appears to the Commission that any person or company may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1980, c. 78, s. 8.

Investigation by order of Minister

9. Despite section 7, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in contracts, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 7. R.S.O. 1980, c. 78, s. 9.

Evidence not to be disclosed

10. No person, without the consent of the Commission, shall disclose, except to his or her counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 7 or 9. R.S.O. 1980, c. 78, s. 10.

Report to Minister

11. Where an investigation has been made under section 7, the Commission may, and, where an investigation has been made under section 9, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he or she considers proper. R.S.O. 1980, c. 78, s. 11.

Order to freeze property

12. (1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9;

compagnie dont les affaires font l'objet de l'enquête.

Rapport d'enquête

(9) La personne nommée en vertu du paragraphe (1), (2) ou (8) présente à la Commission un rapport d'enquête complet et détaillé, accompagné de la transcription des témoignages et des pièces que cette personne a en sa possession et qui sont relatives à l'enquête. L.R.O. 1980, chap. 78, par. 7 (5) à (9).

Rapport au ministre

8. Dans le cas où, sur la foi du rapport de l'enquête menée aux termes de l'article 7, la Commission estime qu'une personne ou une compagnie :

- a) soit a contrevenu à une disposition de la présente loi ou des règlements;
- b) soit a commis une infraction au *Code criminel* (Canada) à l'occasion d'une transaction portant sur des contrats,

la Commission fait parvenir au ministre un rapport d'enquête complet et détaillé, accompagné du rapport qu'elle a reçu, la transcription des témoignages et toutes les pièces qu'elle a en sa possession et qui sont relatives à l'enquête. L.R.O. 1980, chap. 78, art. 8.

Enquête ordonnée par le ministre

9. Malgré l'article 7, le ministre peut, au moyen d'un arrêté, nommer une personne pour faire l'enquête qu'il juge opportune pour l'application régulière de la présente loi, ou sur toute question relative aux opérations sur contrats. La personne ainsi nommée est investie, aux fins de l'enquête, de la même autorité et des mêmes pouvoirs, droits et privilèges que la personne nommée en vertu de l'article 7. L.R.O. 1980, chap. 78, art. 9.

Non-divulagation de la preuve

10. Sauf consentement de la Commission, personne ne doit divulguer, si ce n'est à son avocat, les renseignements ou les éléments de preuve obtenus, ou le nom des témoins interrogés ou devant être interrogés aux termes de l'article 7 ou 9. L.R.O. 1980, chap. 78, art. 10.

Rapport au ministre

11. La Commission peut, à l'issue d'une enquête visée à l'article 7, et la personne chargée d'une enquête doit, à l'issue d'une enquête visée à l'article 9, présenter les résultats de l'enquête au ministre, notamment la preuve, les conclusions, les observations et les recommandations. Le ministre peut rendre le rapport public, en totalité ou en partie, de la manière qu'il juge indiquée. L.R.O. 1980, chap. 78, art. 11.

Ordonnance de blocage des biens

12. (1) La Commission peut :

- a) lorsqu'elle s'apprête à ordonner une enquête sur une personne ou une compagnie, en vertu de l'article 7, ou au cours d'une enquête faite sur une personne ou une compagnie en vertu de l'article 7 ou 9, ou après cette enquête;

- (b) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in contracts; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any contract or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b) or (c) to hold such funds or securities or direct the person or company referred to in clause (a), (b) or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his, her or its possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Courts of Justice Act*, the *Corporations Act*, the *Business Corporations Act*, the *Winding-up Act* (Canada) or section 13 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, but no such direction applies to funds or securities in a commodity futures exchange clearing house, stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan corporation or trust corporation, the direction applies only to the offices, branches or agencies thereof named in the direction.

- b) lorsqu'elle s'apprête à rendre ou a rendu une décision selon laquelle elle suspend ou annule l'inscription d'une personne ou d'une compagnie, ou qui porte atteinte au droit d'une personne ou d'une compagnie d'effectuer des opérations sur contrats;
- c) lorsque des poursuites criminelles ou des poursuites relatives à une contravention à la présente loi ou aux règlements sont sur le point d'être intentées ou ont été intentées contre une personne ou une compagnie et que, de l'avis de la Commission, ces poursuites se rapportent à un contrat ou à des opérations portant sur ce contrat, ou à une entreprise exploitée par cette personne ou compagnie,

par écrit ou par télégramme, au moyen d'une directive, enjoindre à toute personne ou compagnie qui est dépositaire ou qui a le contrôle ou la garde de fonds ou de valeurs mobilières de la personne ou de la compagnie visée à l'alinéa a), b) ou c) de retenir ces fonds ou ces valeurs mobilières, ou, au moyen d'une directive, enjoindre à la personne ou à la compagnie visée à l'alinéa a), b) ou c) de s'abstenir de retirer ces fonds ou ces valeurs mobilières des mains d'une autre personne ou compagnie qui en est dépositaire ou qui en a le contrôle ou la garde, ou de détenir tous les fonds ou toutes les valeurs mobilières de clients ou autres dont elle a la possession ou le contrôle en fiducie pour un séquestre intérimaire, un dépositaire, un syndic, un séquestre ou un liquidateur, nommé en application de la *Loi sur la faillite* (Canada), de la *Loi sur les tribunaux judiciaires*, de la *Loi sur les personnes morales*, de la *Loi sur les sociétés par actions*, de la *Loi sur les liquidations* (Canada), ou de l'article 13 de la présente loi, ou jusqu'à ce que la Commission, par écrit, révoque la directive ou consente à soustraire un fonds ou une valeur mobilière en particulier à l'application de la directive. Toutefois, cette directive ne vise pas les fonds ou les valeurs mobilières qui se trouvent à la chambre de compensation d'une Bourse de contrats à terme sur marchandises ou d'une Bourse de valeurs mobilières, ni les valeurs mobilières en voie de transfert par un agent des transferts, sauf si la directive en fait expressément mention. Dans le cas d'une banque ou d'une société de prêt ou de fiducie, la directive ne s'applique qu'à ceux de leurs bureaux, succursales ou agences qui y sont désignés.

Application  
for directions

(2) Any person or company named in a direction issued under subsection (1) may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification.

Demande de  
directives

(2) Si la personne ou la compagnie nommée dans la directive visée au paragraphe (1) a des doutes quant à l'application de la directive à des fonds ou à des valeurs mobilières en particulier elle peut, par voie de requête, de-

Revocation  
or amend-  
ment of  
direction

(3) Upon the application of a person or company directly affected by a direction issued under subsection (1), the Commission may make an order on such terms and conditions as it may impose revoking the direction or consenting to the release of any fund or security. R.S.O. 1980, c. 78, s. 12.

Appointment  
of receiver,  
etc.

13. (1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9;
- (b) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in contracts;
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any contract or any trade therein, or out of any business conducted by such person or company; or
- (d) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for such person or company,

apply to a judge of the Ontario Court (General Division) for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of such person or company. R.S.O. 1980, c. 78, s. 13 (1), *revised*.

Appointment

(2) Upon an application under subsection (1), the judge may, where he or she is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of any such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver, receiver and

mander à la Commission de rendre une ordonnance donnant des précisions.

(3) La Commission saisie de la requête présentée par une personne ou une compagnie directement touchée par la directive visée au paragraphe (1) peut, au moyen d'une ordonnance rendue aux conditions qu'elle peut imposer, révoquer la directive ou consentir au déblocage de fonds ou de valeurs mobilières. L.R.O. 1980, chap. 78, art. 12.

13. (1) La Commission peut :

- a) lorsqu'elle s'apprête à ordonner, en vertu de l'article 7, une enquête sur une personne ou une compagnie, ou au cours d'une enquête faite sur une personne ou compagnie en vertu de l'article 7 ou 9, ou après cette enquête;
- b) lorsqu'elle s'apprête à rendre ou a rendu une décision selon laquelle elle suspend ou annule l'inscription d'une personne ou d'une compagnie, ou qui porte atteinte au droit d'une personne ou d'une compagnie d'effectuer des opérations sur contrats;
- c) lorsque des poursuites criminelles ou des poursuites relatives à une contravention à la présente loi ou aux règlements sont sur le point d'être intentées ou ont été intentées contre une personne ou une compagnie et que, de l'avis de la Commission, ces poursuites se rapportent à un contrat ou à des opérations portant sur ce contrat, ou à une entreprise exploitée par cette personne ou compagnie;
- d) lorsqu'une personne ou une compagnie omet ou néglige de se conformer aux exigences minimales en matière d'actif net, aux restrictions en matière de placement ou de propriété ou aux exigences relatives à la souscription de capital prescrites par les règlements à l'égard de cette personne ou cette compagnie,

par voie de requête, demander à un juge de la Cour de l'Ontario (Division générale) de nommer un séquestre, un séquestre-gérant, un syndic ou un liquidateur des biens de la personne ou de la compagnie. L.R.O. 1980, chap. 78, par. 13 (1), *révisé*.

(2) Le juge saisi de la requête visée au paragraphe (1), s'il est convaincu que la nomination d'un séquestre, d'un séquestre-gérant, d'un syndic ou d'un liquidateur de la totalité ou d'une partie des biens d'une personne ou d'une compagnie est conforme aux intérêts des créanciers de cette dernière, ou aux intérêts de personnes ou de compagnies ayant des biens en la possession ou sous le contrôle de cette personne ou compagnie, peut nommer un

Révocation  
ou modifica-  
tion de la  
directive

Nomination  
de séquestre

Nomination

manager, trustee or liquidator of the property of such person or company.

Application  
without  
notice

(3) Upon an application made without notice by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days.

Powers of  
receiver, etc.

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. R.S.O. 1980, c. 78, s. 13 (2-4).

Enforcement  
of order

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Ontario Court (General Division) and may be varied or discharged upon an application made by notice.

Rules of  
court

(6) Upon an application made under this section, the rules of court of the Ontario Court (General Division) apply. R.S.O. 1980, c. 78, s. 13 (5, 6), *revised*.

## PART V AUDITS

Audits by  
Commission

14. (1) Despite anything in sections 15, 16, 17 and 18, the Commission may in writing appoint any person to examine at any time the financial affairs of a registrant or a clearing house of a commodity futures exchange in Ontario and prepare such financial or other statements and reports that may be required by the Commission.

Access to  
records

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the registrant or clearing house whose financial affairs are being examined, and no registrant or clearing house shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

séquestre, un séquestre-gérant, un syndic ou un liquidateur des biens de cette personne ou de cette compagnie.

(3) Le juge saisi d'une requête présentée sans préavis par la Commission en vertu du présent article peut, en vertu du paragraphe (2), rendre une ordonnance pour nommer un séquestre, un séquestre-gérant, un syndic ou un liquidateur pour une période d'au plus quinze jours.

(4) Le séquestre, le séquestre-gérant, le syndic ou le liquidateur nommé en vertu du présent article à l'égard des biens d'une personne ou d'une compagnie est le séquestre, le séquestre-gérant, le syndic ou le liquidateur de la totalité ou d'une partie des biens de cette personne ou de cette compagnie, ou des biens détenus par cette dernière en fiducie ou pour le compte de toute autre personne ou compagnie; le séquestre, le séquestre-gérant, le syndic ou le liquidateur est investi, si le juge l'ordonne, de tous les pouvoirs nécessaires ou accessoires pour liquider ou administrer l'entreprise et les affaires de la personne ou de la compagnie. L.R.O. 1980, chap. 78, par. 13 (2) à (4).

(5) L'ordonnance rendue en vertu du présent article peut être exécutée de la même manière que toute ordonnance ou tout jugement de la Cour de l'Ontario (Division générale); elle peut être modifiée ou annulée sur requête présentée par voie d'avis.

(6) Les règles de pratique de la Cour de l'Ontario (Division générale) s'appliquent aux requêtes présentées en vertu du présent article. L.R.O. 1980, chap. 78, par. 13 (5) et (6), *révisés*.

## PARTIE V VÉRIFICATIONS

14. (1) Malgré les articles 15, 16, 17 et 18, la Commission peut, par écrit, nommer une personne pour examiner, en tout temps, la situation financière d'une personne ou d'une compagnie inscrite ou de la chambre de compensation d'une Bourse de contrats à terme sur marchandises en Ontario, et pour dresser les états financiers ou autres états ainsi que les rapports que la Commission peut exiger.

(2) La personne chargée de l'examen visé au présent article peut consulter et examiner tous les registres comptables, les valeurs mobilières, l'argent en caisse, les documents, les comptes bancaires, les pièces comptables, la correspondance et les dossiers, de quelque nature que ce soit, de la personne ou de la compagnie inscrite ou de la chambre de compensation dont la situation financière fait l'objet de l'examen. Nulle personne ou compagnie inscrite ni chambre de compensation ne doit

Requête sans  
préavis

Pouvoirs du  
séquestre

Exécution de  
l'ordonnance

Règles de  
pratique

Vérifications  
par la  
Commission

Consultation  
des registres

Fees

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1980, c. 78, s. 14.

#### PART VI SELF REGULATION—GENERALLY

Self-regulatory bodies

15. (1) The Commission may recognize in writing an association or organization representing registrants, whether incorporated or unincorporated, as a self-regulatory body where it is satisfied that to do so would be in the public interest and that the association or organization has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulations.

Idem

(2) A self-regulatory body recognized under subsection (1) shall, subject to this Act and the regulations and any decision made by the Commission, regulate the standards and business conduct of its members.

Commission's powers

(3) The Commission may, where it appears to it to be in the public interest, make any decision,

- (a) with respect to any by-law, rule or regulation or proposed by-law, rule or regulation of a self-regulatory body recognized under subsection (1);
- (b) with respect to any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1); or
- (c) with respect to any practice of a self-regulatory body recognized under subsection (1).

Review of decisions of self-regulatory body

(4) Any person or company directly affected by any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1) may apply to the Commission for a hearing and review thereof and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. R.S.O. 1980, c. 78, s. 15.

Panel of auditors

16. Every commodity futures exchange in Ontario granted registration by the Commis-

retenir, détruire, dissimuler ou refuser de fournir les renseignements ou les objets nécessaires aux fins de l'examen.

Droits

(3) La Commission peut exiger les droits qui peuvent être prescrits par les règlements pour tout examen effectué en vertu du présent article. L.R.O. 1980, chap. 78, art. 14.

#### PARTIE VI AUTONOMIE—DISPOSITIONS GÉNÉRALES

Organismes autonomes

15. (1) La Commission peut reconnaître par écrit à titre d'organisme autonome une association ou une organisation représentant des personnes ou des compagnies inscrites, qu'elle soit constituée en personne morale ou non, si elle est convaincue que la reconnaissance est conforme à l'intérêt public et que cette association ou organisation a rempli ou est en mesure de remplir toutes les conditions prescrites par les règlements concernant les organismes autonomes.

Idem

(2) Sous réserve de la présente loi, des règlements et de toute décision rendue par la Commission, l'organisme autonome reconnu en vertu du paragraphe (1) réglemente les critères d'admissibilité et la conduite professionnelle de ses membres.

Pouvoirs de la Commission

(3) La Commission, lorsqu'elle le juge conforme à l'intérêt public, peut rendre une décision relative à :

- a) un règlement administratif, une règle ou un règlement existants ou projetés, d'un organisme autonome reconnu en vertu du paragraphe (1);
- b) une directive ou un ordre donnés ou une décision rendue aux termes d'un règlement administratif, d'une règle ou d'un règlement d'un organisme autonome reconnu en vertu du paragraphe (1);
- c) une pratique d'un organisme autonome reconnu en vertu du paragraphe (1).

Révision des décisions des organismes autonomes

(4) Toute personne ou compagnie directement touchée par une directive ou un ordre donnés ou une décision rendue aux termes d'un règlement administratif, d'une règle ou d'un règlement d'un organisme autonome reconnu en vertu du paragraphe (1) peut, par voie de requête, demander à la Commission de tenir une audience et de réviser la directive, l'ordre ou la décision. L'article 4 s'applique à l'audience et à la révision comme s'il s'agissait de l'audience et de la révision d'une décision du directeur. L.R.O. 1980, chap. 78, art. 15.

Comité de vérificateurs

16. Toute Bourse de contrats à terme sur marchandises en Ontario dont la Commission

sion under section 19 and every self-regulatory body recognized by the Commission under section 15 shall,

- (a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, association or organization auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than ten years. R.S.O. 1980, c. 78, s. 16.

Audits by commodity futures exchange and self-regulatory bodies

17. (1) Every commodity futures exchange in Ontario granted registration by the Commission and every self-regulatory body recognized by the Commission shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 16 (a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, association or organization auditor, as the case may be.

Audit by-laws subject to approval

(2) The by-laws, rules and regulations of every commodity futures exchange in Ontario granted registration by the Commission and the by-laws, rules and regulations of every self-regulatory body recognized by the Commission in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1980, c. 78, s. 17.

Filing of financial statements of registrants

18. Every registrant whose financial affairs are not subject to examination under section 17 shall keep such books and records as are necessary for the proper recording of the business transactions and financial affairs of the registrant and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to the financial position of the registrant, certified by the registrant or an officer or partner of the registrant and reported upon by the auditor of the registrant, and shall deliver to the Commission such other information as the Commission

a autorisé l'inscription en vertu de l'article 19, et tout organisme autonome reconnu par la Commission en vertu de l'article 15 :

- a) choisissent un comité de vérificateurs, dont chacun a exercé sa profession pendant au moins cinq ans au Canada et est connu comme vérificateur membre d'un comité ou vérificateur attiré des membres;
- b) retiennent les services, selon le cas, d'un vérificateur des changes, ou d'un vérificateur d'association ou d'organisation, dont la nomination est subordonnée à l'approbation de la Commission. Il doit avoir exercé au Canada la profession de vérificateur pendant au moins dix ans. L.R.O. 1980, chap. 78, art. 16.

17. (1) Toute Bourse de contrats à terme sur marchandises en Ontario dont la Commission a autorisé l'inscription et tout organisme autonome reconnu par cette dernière fait en sorte que chaque membre appartenant à la catégorie ou aux catégories de leurs membres que la Commission peut désigner par écrit nomme parmi les vérificateurs du comité choisi conformément à l'alinéa 16 a), un vérificateur aux fins d'examiner la situation financière de ce membre conformément aux règlements administratifs, aux règles ou aux règlements applicables aux membres de la catégorie ou des catégories susmentionnées, et d'en faire rapport au vérificateur des changes, ou au vérificateur de l'association ou de l'organisation, selon le cas.

Vérifications par les Bourses de contrats à terme sur marchandises et par les organismes autonomes

(2) Les règlements administratifs, les règles et les règlements de toute Bourse de contrats à terme sur marchandises en Ontario dont la Commission a autorisé l'inscription, ainsi que ceux de tout organisme autonome reconnu par la Commission, qui régissent la pratique et la procédure applicables aux vérifications prévues au paragraphe (1), sont subordonnés à l'approbation de la Commission; les vérifications elles-mêmes doivent s'effectuer d'une façon jugée satisfaisante par la Commission. L.R.O. 1980, chap. 78, art. 17.

Approbation préalable des règlements administratifs relatifs à la vérification

18. Toute personne ou compagnie inscrite dont la situation financière n'est pas subordonnée à la vérification prévue à l'article 17 tient les livres et registres nécessaires aux fins de refléter fidèlement ses transactions commerciales et sa situation financière. Elle présente à la Commission, une fois par année et à la demande de celle-ci, un état financier jugé satisfaisant par la Commission au sujet de sa situation financière. Cet état financier est attesté par la personne ou compagnie inscrite, ou l'un de ses dirigeants ou associés, et commenté par son vérificateur. La personne ou compagnie inscrite fournit également à la Commission, dans la forme que cette dernière

Dépôt des états financiers des personnes inscrites

may require in such form as it may prescribe. R.S.O. 1980, c. 78, s. 18.

## PART VII COMMODITY FUTURES EXCHANGES IN ONTARIO

Commodity  
futures ex-  
changes in  
Ontario

**19.** (1) No person or company shall carry on business as a commodity futures exchange in Ontario unless the commodity futures exchange is registered as a commodity futures exchange.

Registration

(2) Upon application by or on behalf of a person or company wishing to carry on business in Ontario as a commodity futures exchange, the Commission shall grant registration to that person or company for the purposes of subsection (1) where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether,

- (a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;
- (b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced;
- (c) floor trading practices are fair and properly supervised;
- (d) adequate measures have been taken to prevent manipulation and excessive speculation;
- (e) adequate provision has been made to record and publish details of trading including volume and open interest; and
- (f) the commodity futures exchange has satisfied or can satisfy all conditions prescribed under the regulations for the conduct of the business of a commodity futures exchange.

Hearing

(3) The Commission shall not refuse to grant registration to a commodity futures exchange for the purposes of subsection (1)

peut prescrire, tout autre renseignement que la Commission peut exiger. L.R.O. 1980, chap. 78, art. 18.

## PARTIE VII BOURSES DE CONTRATS À TERME SUR MARCHANDISES EN ONTARIO

Bourses de  
contrats à  
terme sur  
marchan-  
dises en  
Ontario

**19.** (1) Nulle personne ou compagnie ne doit exploiter en Ontario une Bourse de contrats à terme sur marchandises sans que cette Bourse ne soit inscrite comme Bourse de contrats à terme sur marchandises.

Inscription

(2) Lorsqu'une personne ou une compagnie désireuse d'exploiter en Ontario une Bourse de contrats à terme sur marchandises présente une demande à cet effet ou qu'une telle demande est présentée en son nom, la Commission autorise l'inscription pour l'application du paragraphe (1) si elle est convaincue que l'autorisation ne porte pas atteinte à l'intérêt public. La Commission tient compte, en rendant sa décision, des éléments suivants, à savoir :

- a) si les mécanismes de compensation et autres arrangements conclus ainsi que la situation financière de la Bourse de contrats à terme sur marchandises, de sa chambre de compensation et de ses membres constituent une garantie raisonnable que toutes les obligations nées des contrats conclus dans cette Bourse de contrats à terme sur marchandises seront remplies;
- b) si les règles et règlements régissant les membres de la Bourse et de sa chambre de compensation sont conformes à l'intérêt public et rigoureusement appliqués;
- c) si les pratiques régissant les opérations sur le parquet sont honnêtes et suffisamment surveillées;
- d) si des mesures appropriées ont été prises pour prévenir la manipulation et la spéculation abusive;
- e) si des dispositions appropriées ont été prises pour la consignation et la publication des détails relatifs aux opérations, dont le volume total et les intérêts en cours;
- f) si la Bourse des contrats à terme sur marchandises a rempli ou est en mesure de remplir toutes les conditions prescrites par les règlements qui régissent le fonctionnement de la Bourse de contrats à terme sur marchandises.

Audience

(3) La Commission ne doit pas refuser l'inscription d'une Bourse de contrats à terme sur marchandises pour l'application du para-

without giving the applicant an opportunity to be heard. R.S.O. 1980, c. 78, s. 19.

Filing of  
by-laws, etc.

20. (1) Every commodity futures exchange in Ontario and its clearing house shall file with the Commission all by-laws, rules, regulations and policies as soon as practicable and in any event within five days of the date on which the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or its clearing house and prior to approval by the membership of the commodity futures exchange or clearing house.

Commis-  
sion's powers

(2) The Commission may, where it appears to it to be in the public interest, make any decision,

- (a) with respect to the manner in which any commodity futures exchange in Ontario or its clearing house carries on business;
- (b) with respect to any by-law, rule or regulation of any such commodity futures exchange or its clearing house; or
- (c) with respect to trading on or through the facilities of any such commodity futures exchange or with respect to any contract traded on any such commodity futures exchange including the setting of levels of margin, daily price limits, daily trading limits and position limits.

Review of  
decision of  
commodity  
futures  
exchange

(3) Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a commodity futures exchange in Ontario or its clearing house may apply to the Commission for a hearing and review thereof and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. R.S.O. 1980, c. 78, s. 20.

Records and  
reports

21. Every commodity futures exchange and its clearing house in Ontario shall keep such records as are necessary for the proper recording of each transaction on such exchange and shall,

- (a) supply to any customer of any member of such commodity futures exchange, upon production of a written confirmation of any transaction with such

graphe (1) sans donner à l'auteur de la demande l'occasion d'être entendu. L.R.O. 1980, chap. 78, art. 19.

20. (1) Toute Bourse de contrats à terme sur marchandises en Ontario ainsi que sa chambre de compensation déposent auprès de la Commission tous leurs règlements administratifs, règles, règlements et directives dès que possible, et au plus tard dans les cinq jours de la date de leur approbation par le conseil d'administration de la Bourse des contrats à terme sur marchandises ou de sa chambre de compensation, et avant leur approbation par les membres de l'une ou l'autre de ces dernières.

(2) La Commission, lorsqu'elle le juge conforme à l'intérêt public, peut rendre une décision relative :

- a) à la manière dont une Bourse de contrats à terme sur marchandises en Ontario ou sa chambre de compensation exerce ses activités commerciales;
- b) à tout règlement administratif, à toute règle ou à tout règlement d'une telle Bourse de contrats à terme sur marchandises ou de sa chambre de compensation;
- c) aux opérations effectuées dans une telle Bourse de contrats à terme sur marchandises ou à l'aide de ses installations, ou relative à tout contrat sur lequel des opérations ont été effectuées dans celle-ci, y compris l'établissement des niveaux de couverture, les limites du cours quotidien, les limites d'opérations quotidiennes et les limites de positions.

(3) Toute personne ou compagnie directement touchée par une directive ou un ordre donnés ou par une décision rendue en application d'un règlement administratif, d'une règle ou d'un règlement d'une Bourse de contrats à terme sur marchandises en Ontario ou de sa chambre de compensation peut, par voie de requête, demander à la Commission de tenir une audience et de réviser la directive, l'ordre ou la décision. L'article 4 s'applique à l'audience et à la révision comme s'il s'agissait de l'audience et de la révision d'une décision du directeur. L.R.O. 1980, chap. 78, art. 20.

21. Toute Bourse de contrats à terme sur marchandises de même que sa chambre de compensation en Ontario tiennent les registres nécessaires à la consignation convenable de toutes les transactions effectuées dans cette Bourse. Elles doivent :

- a) fournir au client d'un membre de cette Bourse de contrats à terme sur marchandises, sur production de la confirmation écrite d'une transaction avec ce

Dépôt des règlements administratifs

Pouvoirs de la Commission

Révision des décisions d'une Bourse de contrats à terme sur marchandises

Registres et rapports

member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation; and

- (b) deliver to the Commission at such time or times as the Commission may require reports as to transactions on such exchange in such form as the Commission may prescribe. R.S.O. 1980, c. 78, s. 21.

### PART VIII REGISTRATION FOR TRADING, ACTING AS ADVISER

Registration  
for trading

22. (1) No person or company shall,

- (a) trade in a contract unless such person or company is registered as a dealer or is registered as a salesman or floor trader or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;
- (b) act as an adviser unless such person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of such adviser,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions.

Termination  
re sales-  
person and  
floor trader

(2) The termination of the employment of a salesman or floor trader with a registered dealer shall operate as a suspension of the registration of the salesman or floor trader until notice in writing has been received by the Director from another registered dealer of the employment of the salesman or floor trader by such other registered dealer and the reinstatement of the registration has been approved by the Director.

Non-trading  
employee

(3) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually trade in contracts, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. R.S.O. 1980, c. 78, s. 22.

Granting of  
registration

23. (1) The Director shall grant registration, renewal of registration, reinstatement of regis-

membre, les détails relatifs au moment où la transaction a eu lieu et notamment l'attestation des faits figurant dans la confirmation;

- b) remettre à la Commission, aux dates et dans la forme que cette dernière peut prescrire, les rapports sur les transactions effectuées dans cette Bourse. L.R.O. 1980, chap. 78, art. 21.

### PARTIE VIII INSCRIPTION EN VUE DES OPÉRATIONS —LES CONSEILLERS

22. (1) Nulle personne ou compagnie ne doit :

Inscription  
en vue des  
opérations

- a) effectuer des opérations sur un contrat à moins d'être inscrite à titre de courtier, ou de représentant, de négociateur en Bourse, d'associé ou de dirigeant d'un courtier inscrit et d'agir pour le compte de ce courtier;
- b) agir comme conseiller à moins d'être inscrite à titre de conseiller, ou à titre d'associé ou de dirigeant d'un conseiller inscrit et d'agir pour le compte de ce conseiller,

et à moins que l'inscription n'ait été faite conformément à la présente loi et aux règlements et que la personne ou la compagnie n'ait reçu du directeur un avis écrit de cette inscription, et si l'inscription est subordonnée à certaines conditions, à moins que la personne ou la compagnie ne se conforme à ces conditions.

(2) La cessation d'emploi d'un représentant ou d'un négociateur en Bourse auprès d'un courtier inscrit a pour effet de suspendre l'inscription du représentant ou du négociateur en Bourse jusqu'à ce qu'un autre courtier inscrit avise par écrit le directeur qu'il a pris à son service ce représentant ou négociateur en Bourse et que le directeur approuve la remise en vigueur de l'inscription.

Cessation  
d'emploi  
d'un repré-  
sentant et  
d'un négo-  
ciateur en  
Bourse

(3) Le directeur peut désigner comme non-négociateur un employé ou une catégorie d'employés d'un courtier inscrit qui n'effectue pas habituellement des opérations sur contrats. Toutefois, cette désignation peut être annulée à l'égard d'un employé ou d'une catégorie d'employés, si le directeur est convaincu que cet employé ou un membre de cette catégorie d'employés devrait être tenu de présenter une demande d'inscription à titre de représentant. L.R.O. 1980, chap. 78, art. 22.

Employés  
non-négo-  
ciateurs

23. (1) Le directeur autorise l'inscription, le renouvellement, la remise en vigueur ou la

Octroi de  
l'inscription

tration or amendment to registration to an applicant except where,

- (a) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible to conduct business;
- (b) the past conduct of the applicant, or the officers, directors or partners of the applicant, affords reasonable grounds for belief that the business of the applicant will not be carried on in accordance with law and with integrity and honesty; or
- (c) the applicant is or will be carrying on activities that are in contravention of this Act or the regulations.

Terms and conditions

(2) The Director may in his or her discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in a certain class of contracts.

Refusal

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1980, c. 78, s. 23.

Suspension, cancellation, etc.

24. (1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest.

Interim suspension

(2) Where the delay necessary for a hearing under subsection (1) would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 4.

Surrender

(3) Despite subsection (1), the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be

modification de l'inscription de l'auteur d'une demande, sauf si :

- a) compte tenu de la situation financière de l'auteur de la demande, il n'y a pas raisonnablement lieu de croire qu'il sera financièrement responsable dans l'exercice des activités commerciales;
- b) la conduite antérieure de l'auteur de la demande, ou de ses dirigeants, administrateurs ou associés offre des motifs raisonnables de croire qu'il n'exercera pas ses activités commerciales conformément à la loi, et avec intégrité et honnêteté;
- c) l'auteur de la demande exerce ou exercera des activités qui contreviennent à la présente loi ou aux règlements.

Conditions

(2) Le directeur peut, à sa discrétion, limiter la validité d'une inscription en subordonnant celle-ci à certaines conditions; il peut notamment en limiter la durée ou en limiter la validité à l'égard d'opérations portant sur certaines catégories de contrats seulement.

Refus

(3) Le directeur ne doit pas refuser d'autoriser, de renouveler, de remettre en vigueur ou de modifier une inscription, ni subordonner celle-ci à des conditions, sans donner à l'auteur de la demande l'occasion d'être entendu. L.R.O. 1980, chap. 78, art. 23.

Suspension et annulation

24. (1) Après avoir donné à la personne inscrite l'occasion d'être entendue, la Commission peut réprimander la personne inscrite, suspendre ou annuler son inscription, en limiter la validité, ou la subordonner à certaines conditions si, à son avis, cette mesure est conforme à l'intérêt public.

Suspension provisoire

(2) Si, de l'avis de la Commission, les délais requis pour l'audience visée au paragraphe (1) auront pour effet de porter atteinte à l'intérêt public, la Commission peut suspendre l'inscription sans donner à la personne ou la compagnie inscrite l'occasion d'être entendue. Dans ce cas, elle avise sans délai la personne ou la compagnie inscrite de la suspension ainsi que de l'audience et de la révision qui doivent avoir lieu devant la Commission dans les quinze jours de la date de la suspension. L'audience et la révision sont réputées être l'audience et la révision que prévoit l'article 4.

Radiation

(3) Malgré le paragraphe (1), la Commission, saisie de la demande présentée à cet effet par une personne ou une compagnie inscrite, peut, sous réserve des conditions qu'elle peut imposer, accepter la radiation volontaire de l'inscription de cette personne ou compagnie inscrite, si elle est convaincue que cette dernière s'est acquittée de ses obligations financières à l'endroit de ses clients et que la radia-

prejudicial to the public interest. R.S.O. 1980, c. 78, s. 24.

Subsequent applications

**25.** A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1980, c. 78, s. 25.

Application

**26.** An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1980, c. 78, s. 26.

Address for service

**27.** Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1980, c. 78, s. 27.

Further information

**28.** The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1980, c. 78, s. 28.

Residence

**29. (1)** The Director may refuse registration to an individual if he or she has not been a resident of Canada for at least one year immediately prior to the date of the application for registration unless at the time of such application such individual is registered in a capacity corresponding to that of a dealer, adviser, partner, officer, salesperson or floor trader under the laws of the jurisdiction in which he or she last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1980, c. 78, s. 29 (1); 1985, c. 5, s. 2 (1).

Idem

**(2)** The Director may refuse registration to a person or company if any director or officer of such person or company has not been a

tion de l'inscription n'aura pas pour effet de porter atteinte à l'intérêt public. L.R.O. 1980, chap. 78, art. 24.

Demandes ultérieures

**25.** Il peut être présenté une nouvelle demande d'inscription fondée sur des faits nouveaux ou d'autres facteurs, ou lorsqu'il est clair qu'il s'est produit un changement de circonstances importantes. L.R.O. 1980, chap. 78, art. 25.

Demande

**26.** La demande d'inscription est présentée par écrit, selon la formule prescrite par les règlements et fournie par la Commission. Elle est accompagnée des droits qui peuvent être prescrits par les règlements. L.R.O. 1980, chap. 78, art. 26.

Domicile élu

**27.** L'auteur de la demande indique dans sa demande son domicile élu en Ontario. Sauf disposition contraire de la présente loi, tous les avis donnés en application de la présente loi ou des règlements sont réputés, à toutes fins, régulièrement signifiés, s'ils sont délivrés ou envoyés par courrier affranchi au dernier domicile élu ainsi indiqué. L.R.O. 1980, chap. 78, art. 27.

Renseignements supplémentaires

**28.** Le directeur peut exiger la production de renseignements ou de documents supplémentaires par l'auteur de la demande ou la personne ou compagnie inscrite dans un délai déterminé, et peut exiger l'attestation, notamment par affidavit, de tout renseignement ou document produit à ce moment-là ou antérieurement, ou encore le directeur peut exiger l'interrogatoire sous serment, par la personne qu'il désigne à cet effet, de l'auteur de la demande, de la personne ou de la compagnie inscrite, ou de tout associé, dirigeant, administrateur, gouverneur ou fiduciaire de l'auteur de la demande, ou de la personne ou de la compagnie inscrite ou de toute personne qui remplit auprès de ceux-ci des fonctions analogues, ou qui est leur employé. L.R.O. 1980, chap. 78, art. 28.

Résidence

**29. (1)** Le directeur peut refuser l'inscription d'un particulier qui n'a pas résidé au Canada pendant au moins l'année qui précède immédiatement la date de la demande d'inscription, à moins qu'à cette date, ce particulier n'ait été inscrit pendant au moins l'année qui précède immédiatement la date de la demande, à un titre équivalent à celui de courtier, de conseiller, d'associé, de dirigeant, de représentant ou de négociateur en Bourse sous le régime des lois du ressort dans lequel il résidait en dernier lieu, et que, de l'avis du directeur, il ne soit par ailleurs admissible à l'inscription. L.R.O. 1980, chap. 78, par. 29 (1); 1985, chap. 5, par. 2 (1).

Idem

**(2)** Le directeur peut refuser l'inscription d'une personne ou d'une compagnie dont l'un des administrateurs ou des dirigeants n'a pas

resident of Canada for at least one year immediately prior to the date of application for registration unless at the time of such application the applicant is registered in a capacity corresponding to that of dealer, adviser, partner, officer or salesperson or floor trader under the laws of the jurisdiction in which the applicant last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1980, c. 78, s. 29 (2); 1985, c. 5, s. 2 (2).

Notice of  
changes

30. (1) Every registered dealer shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address;
- (b) any change in,
  - (i) the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
  - (ii) the holders of the voting securities of the registered dealer;
- (c) the commencement and termination of employment of every registered salesperson and floor trader and in the case of termination of employment, the reason therefor;
- (d) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (e) any change in the name or address of the person in charge of any branch office in Ontario.

Idem

(2) Every registered adviser, shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address; and
- (b) any change in,
  - (i) the directors or officers of the registered adviser and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and

résidé au Canada pendant au moins l'année qui précède immédiatement la date de la demande d'inscription, à moins qu'à cette date, il n'ait été inscrit pendant au moins l'année qui précède immédiatement la date de la demande, à un titre équivalent à celui de courtier, de conseiller, d'associé, de dirigeant, de représentant ou de négociateur en Bourse, sous le régime des lois du ressort dans lequel il résidait en dernier lieu, et à moins que, de l'avis du directeur, il ne soit par ailleurs admissible à l'inscription. L.R.O. 1980, chap. 78, par. 29 (2); 1985, chap. 5, par. 2 (2).

30. (1) Tout courtier inscrit avise le directeur, dans les cinq jours ouvrables, et selon la formule prescrite par les règlements, des événements suivants :

Avis de  
changement

- a) tout changement de domicile élu en Ontario ou de l'adresse professionnelle;
- b) tout changement :
  - (i) au sein des administrateurs ou des dirigeants du courtier inscrit et, le cas échéant, le motif de la démission, de la destitution, du départ ou de la cessation d'emploi ou de fonctions,
  - (ii) au sein des détenteurs de valeurs mobilières avec droit de vote du courtier inscrit;
- c) l'entrée en fonctions et la cessation d'emploi de tout représentant et négociateur en Bourse inscrits et, le cas échéant, le motif de la cessation d'emploi;
- d) l'ouverture ou la fermeture de toute succursale en Ontario et, dans le premier cas, le nom et l'adresse de la personne qui en assure la direction;
- e) tout changement de nom ou d'adresse de la personne qui assure la direction d'une succursale en Ontario.

(2) Tout conseiller inscrit avise le directeur, dans les cinq jours ouvrables, et selon la formule prescrite par les règlements, des événements suivants :

Idem

- a) tout changement de domicile élu en Ontario ou de l'adresse professionnelle;
- b) tout changement :
  - (i) au sein des administrateurs ou des dirigeants du conseiller inscrit et, le cas échéant, le motif de la démission, de la destitution, du départ ou de la cessation d'emploi ou de fonctions,

- (ii) the holders of the voting securities of the registered adviser.

- (ii) au sein des détenteurs de valeurs mobilières avec droit de vote du conseiller inscrit.

Idem

(3) Every registered salesperson and floor trader shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

(3) Tout représentant inscrit et tout négociateur en Bourse inscrit avise le directeur, dans les cinq jours ouvrables, et selon la formule prescrite par les règlements, des événements suivants :

Idem

- (a) any change in address for service in Ontario or any business address; and  
(b) every commencement and termination of employment by a registered dealer.

- a) tout changement de domicile élu en Ontario ou de l'adresse professionnelle;  
b) son entrée en fonctions ou la cessation de son emploi auprès d'un courtier inscrit.

Exemptions

(4) The Director may, upon an application of a registrant, exempt, subject to such terms and conditions as he or she may impose, the registrant from the requirement of subsections (1) and (2) that the Director be notified of any change in the holders of voting securities of the registrant where in his or her opinion it would not be prejudicial to the public interest to do so. R.S.O. 1980, c. 78, s. 30.

(4) Le directeur, à la demande présentée par une personne ou une compagnie inscrite, peut, sous réserve des conditions qu'il peut imposer, dispenser la personne ou la compagnie inscrite des exigences visées aux paragraphes (1) et (2), selon lesquelles le directeur doit être avisé de tout changement survenu au sein des détenteurs de valeurs mobilières avec droit de vote de cette personne ou compagnie inscrite, si à son avis, la dispense n'aura pas pour effet de porter atteinte à l'intérêt public. L.R.O. 1980, chap. 78, art. 30.

Dispenses

#### PART IX EXEMPTIONS FROM REGISTRATION REQUIREMENTS

#### PARTIE IX DISPENSES DE L'INSCRIPTION

Exemptions  
of advisers

**31.** Registration as an adviser is not required to be obtained by,

**31.** Sont dispensés de l'inscription à titre de conseillers :

Conseillers  
dispensés

- (a) a bank listed in Schedule I or II to the *Bank Act* (Canada), or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), or a trust corporation registered under the *Loan and Trust Corporations Act*, or an insurance company licensed under the *Insurance Act*;
- (b) a lawyer, accountant, engineer, teacher or employee of the Ministry of Agriculture and Food;
- (c) a registered dealer, or any partner, officer or employee thereof;
- (d) a person or company registered as an adviser under the *Securities Act*, or any partner, officer or employee thereof;
- (e) a publisher of or any writer for any newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as

- a) les banques mentionnées à l'annexe I ou II de la *Loi sur les banques* (Canada), la Banque fédérale de développement constituée en personne morale en application de la *Loi sur la Banque fédérale de développement* (Canada), les sociétés de fiducie inscrites aux termes de la *Loi sur les sociétés de prêt et de fiducie*, ou les compagnies d'assurances titulaires d'un permis délivré aux termes de la *Loi sur les assurances*;
- b) les avocats, les comptables, les ingénieurs, les enseignants ou les employés du ministère de l'Agriculture et de l'Alimentation;
- c) les courtiers inscrits, ou leurs associés, dirigeants ou employés;
- d) les personnes ou les compagnies inscrites à titre de conseillers sous le régime de la *Loi sur les valeurs mobilières*, ou leurs associés, dirigeants ou employés;
- e) les éditeurs ou rédacteurs d'un journal, d'un magazine d'actualités ou d'une publication professionnelle ou financière, généralement lus et régulièrement distribués à leurs abonnés moyennant contrepartie, ou à leurs acheteurs, les-

an adviser only through such publication and has no interest either directly or indirectly in any of the contracts upon which the advice is given and receives no commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation, or

- (f) such other persons or companies as are designated by the regulations. R.S.O. 1980, c. 78, s. 31.

Exemption  
of trades

**32.** (1) Subject to the regulations, registration is not required in respect of,

- (a) a trade in a contract by a hedger through a dealer;
- (b) a trade in a contract by a person or company acting solely through an agent who is a registered dealer;
- (c) a trade in a contract to be executed on an exchange situate outside Ontario resulting from an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer; or
- (d) a trade in a contract in respect of which a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director under the *Securities Act*. R.S.O. 1980, c. 78, s. 32.

#### PART X RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

Registration  
or recogni-  
tion of  
commodity  
futures  
exchange  
and accept-  
ance of form  
of contracts  
required

**33.** No person or company, except a hedger, shall trade in contracts on the person's or company's account or on behalf of any other person or company except,

- (a) contracts traded on a commodity futures exchange, registered by the Commission or recognized by the Commission under this Part, if the form of the contracts has been approved by the Director under this Part;
- (b) contracts for which a preliminary prospectus and a prospectus have been

quels éditeurs ou rédacteurs agissent à titre de conseillers uniquement par l'entremise de telles publications, n'ont aucun intérêt, direct ou indirect, sur les contrats visés par leurs conseils et ne reçoivent aucune commission ni autre contrepartie en retour de leurs conseils,

lorsque la prestation des services de conseiller n'est qu'accessoire à leurs activités ou entreprise principales;

- f) toute autre personne ou compagnie désignée par les règlements. L.R.O. 1980, chap. 78, art. 31.

**32.** (1) Sous réserve des règlements, sont dispensées de l'inscription :

- a) l'opération portant sur un contrat effectuée par un arbitragiste en couverture par l'entremise d'un courtier;
- b) l'opération portant sur un contrat effectuée par une personne ou une compagnie agissant exclusivement par l'entremise d'un mandataire qui est un courtier inscrit;
- c) l'opération portant sur un contrat devant être exécuté dans une Bourse située à l'extérieur de l'Ontario, par suite d'un ordre passé à un courtier qui n'exerce pas ses activités commerciales en Ontario, sans qu'il y ait eu sollicitation par le courtier ou pour son compte;
- d) l'opération portant sur un contrat à l'égard duquel un prospectus provisoire et un prospectus définitif ont été déposés, et des accusés de réception obtenus du directeur aux termes de la *Loi sur les valeurs mobilières*. L.R.O. 1980, chap. 78, art. 32.

Opérations  
qui font  
l'objet  
d'une  
dispense

#### PARTIE X RECONNAISSANCE DES BOURSES DE CONTRATS À TERME SUR MARCHANDISES ET APPROBATION DE LA FORME DES CONTRATS

**33.** Nulle personne ou compagnie, à l'exception des arbitragistes en couverture, ne doit effectuer des opérations sur contrats pour son propre compte ou pour le compte d'une autre personne ou compagnie, sauf :

- a) les contrats sur lesquels des opérations ont été effectuées dans une Bourse de contrats à terme sur marchandises inscrite par la Commission ou reconnue par la Commission aux termes de la présente partie, si le directeur a approuvé la forme des contrats conformément à la présente partie;
- b) les contrats à l'égard desquels un prospectus provisoire et un prospectus défi-

Inscription  
ou recon-  
naissance  
des Bourses  
de contrats à  
terme sur  
marchan-  
dises et ap-  
probation de  
la forme  
des contrats

filed and receipts therefor obtained from the Director under the *Securities Act*; and

- (c) a contract traded on a commodity futures exchange situate outside Ontario as the result of an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer. R.S.O. 1980, c. 78, s. 33.

Recognition  
of commod-  
ity futures  
exchange by  
Commission

34. (1) Upon application by or on behalf of a commodity futures exchange that is situate outside Ontario, the Commission shall recognize such commodity futures exchange where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether,

- (a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;
- (b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced;
- (c) floor trading practices are fair and properly supervised;
- (d) adequate measures have been taken to prevent manipulation and excessive speculation;
- (e) adequate provision has been made to record and publish details of trading including volume and open interest;
- (f) the exchange and its clearing house have undertaken to comply with section 35; and
- (g) the exchange and its clearing house are subject to appropriate government controls.

Hearing

(2) The Commission shall not refuse to recognize a commodity futures exchange under this Part without giving the applicant an op-

nitif ont été déposés, et des accusés de réception obtenus du directeur aux termes de la *Loi sur les valeurs mobilières*;

- c) les contrats négociés dans une Bourse de contrats à terme sur marchandises située à l'extérieur de l'Ontario, par suite d'un ordre passé à un courtier qui n'exerce pas ses activités commerciales en Ontario, sans qu'il y ait eu sollicitation par le courtier ou pour son compte. L.R.O. 1980, chap. 78, art. 33.

Reconnais-  
sance par la  
Commission

34. (1) Saisie de la demande présentée par une Bourse de contrats à terme sur marchandises située à l'extérieur de l'Ontario ou pour son compte, la Commission reconnaît cette Bourse de contrats à terme sur marchandises si elle est convaincue que la reconnaissance n'aura pas pour effet de porter atteinte à l'intérêt public. La Commission tient compte, en rendant sa décision, des éléments suivants, à savoir :

- a) si les mécanismes de compensation et autres arrangements ainsi que la situation financière de la Bourse de contrats à terme sur marchandises, de sa chambre de compensation et de ses membres constituent une garantie raisonnable que toutes les obligations nées des contrats conclus dans cette Bourse de contrats à terme sur marchandises seront remplies;
- b) si les règles et règlements régissant les membres de la Bourse et de sa chambre de compensation sont conformes à l'intérêt public et rigoureusement appliqués;
- c) si les pratiques régissant les opérations sur le parquet sont honnêtes et suffisamment surveillées;
- d) si des mesures appropriées ont été prises pour prévenir la manipulation et la spéculation abusive;
- e) si des dispositions appropriées ont été prises pour la consignation et la publication des détails relatifs aux opérations, dont le volume total et les intérêts en cours;
- f) si la Bourse de contrats à terme sur marchandises et sa chambre de compensation se sont engagées à observer l'article 35;
- g) si la Bourse de contrats à terme sur marchandises et sa chambre de compensation sont subordonnées au contrôle gouvernemental approprié.

(2) La Commission ne doit pas refuser de reconnaître une Bourse de contrats à terme sur marchandises aux termes de la présente partie sans donner à l'auteur de la demande l'occa-

Audience

portunity to be heard. R.S.O. 1980, c. 78, s. 34.

Filing of by-laws, etc.

35. Every commodity futures exchange recognized by the Commission under section 34 and its clearing house shall file with the Commission all by-laws, rules, regulations and policies forthwith after the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or clearing house. R.S.O. 1980, c. 78, s. 35.

Acceptance of form of contracts by Director

36. (1) Upon application by or on behalf of a commodity futures exchange registered by the Commission, or recognized by the Commission under this Part, and the filing of a copy of all terms and conditions of a contract that it is proposed be traded in Ontario, the Director shall accept the form of contract where he or she is satisfied that to do so would not be prejudicial to the public interest and in making his or her decision shall take into account whether,

- (a) more than occasional use is made or can be reasonably expected to be made of the contract for hedging transactions;
- (b) with respect to a commodity futures contract each term or condition is in conformity with normal commercial practices of the trade in the commodity or if not in such conformity there is reasonable justification therefor;
- (c) with respect to a commodity futures contract satisfactory levels of margin, daily price limits, daily trading limits and position limits are imposed by the commodity futures exchange;
- (d) with respect to a commodity futures option the form of the commodity futures contract that is the subject of the option has been accepted under this Part; and
- (e) with respect to a commodity futures option performance on exercise of the option is reasonably assured by established rules and procedures that are actively enforced.

Hearing

(2) The Director shall not refuse to accept the form of contract without giving the applicant an opportunity to be heard. R.S.O. 1980, c. 78, s. 36.

sion d'être entendu. L.R.O. 1980, chap. 78, art. 34.

35. Toute Bourse de contrats à terme sur marchandises reconnue par la Commission en vertu de l'article 34 ainsi que sa chambre de compensation déposent auprès de la Commission tous leurs règlements administratifs, règles, règlements et directives dès leur approbation par le conseil d'administration de la Bourse de contrats à terme sur marchandises ou de sa chambre de compensation. L.R.O. 1980, chap. 78, art. 35.

Dépôt des règlements administratifs

36. (1) Le directeur, saisi de la demande présentée à cet effet par une Bourse de contrats à terme sur marchandises inscrite ou reconnue par la Commission aux termes de la présente partie ou présentée pour le compte de cette Bourse, et après le dépôt d'une copie de toutes les stipulations d'un contrat qu'il est projeté de négocier en Ontario, approuve la forme de ce contrat s'il est convaincu que l'approbation n'aura pas pour effet de porter atteinte à l'intérêt public. Le directeur tient compte, en rendant sa décision, des éléments suivants, à savoir :

Approbation de la forme des contrats administratifs par le directeur

- a) s'il y a raisonnablement lieu de croire qu'il est ou sera fait un usage plus qu'occasionnel de ce contrat lors des transactions d'arbitrage en couverture;
- b) si, à l'égard d'un contrat à terme sur marchandises, chaque stipulation est conforme aux pratiques commerciales normales établies à l'égard de l'opération qui porte sur la marchandise ou, dans le cas contraire, s'il existe des motifs raisonnables qui justifient l'absence de conformité;
- c) si, à l'égard d'un contrat à terme sur marchandises, la Bourse de contrats à terme sur marchandises impose des niveaux de couverture satisfaisants, des limites satisfaisantes quant au cours quotidien, aux opérations quotidiennes et aux positions;
- d) si, à l'égard d'une option sur contrat à terme sur marchandises, la forme du contrat à terme sur marchandises qui fait l'objet de l'option a été approuvée conformément à la présente partie;
- e) si, à l'égard d'une option sur contrat à terme sur marchandises, l'exécution des obligations relatives à la levée de l'option est raisonnablement garantie par les règles et procédures établies et rigoureusement appliquées.

(2) Le directeur ne doit pas refuser d'approuver la forme d'un contrat sans avoir donné à l'auteur de la demande l'occasion d'être entendu. L.R.O. 1980, chap. 78, art. 36.

Audience

Terms and conditions of contracts to be filed with Commission and available through agent

**37. (1)** It is a condition of acceptance of the form of a contract under section 36 that the commodity futures exchange,

- (a) file with the Commission copies of all current contract terms and conditions; and
- (b) unless the Director by order modifies the requirement, make copies of all current contract terms and conditions available to registrants through an agent in Ontario designated by the commodity futures exchange.

Idem

(2) Copies of amendments or additions to contract terms and conditions shall be filed with the Commission and supplied to the agent designated by the commodity futures exchange forthwith after the amendment or addition is approved by the board of directors of the commodity futures exchange.

Idem

(3) The Director shall not accept the form of a contract until advised by the commodity futures exchange of the name and address of the agent designated for the purposes of subsection (1).

Idem

(4) The commodity futures exchange shall, within five days of the event, notify the Director of any change in the name or address of the agent designated for the purposes of subsection (1). R.S.O. 1980, c. 78, s. 37.

Order exempting from registration for trading, acceptance of form of contract

**38. (1)** The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 22 or 33 where it is satisfied that to do so will not be prejudicial to the public interest and may impose such terms and conditions as are considered necessary.

Ruling final

(2) A decision of the Commission under this section is final and there is no appeal therefrom. R.S.O. 1980, c. 78, s. 38.

#### **PART XI REVOCATION OF REGISTRATION OR RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT**

Order revoking registration or recognition of commodity futures exchange or acceptance of form of contract

**39. (1)** The Commission may, where in its opinion such action is in the public interest, and, subject to such terms and conditions as it may impose, by order revoke registration of a commodity futures exchange under Part VII or recognition of a commodity futures exchange under Part X or revoke acceptance of the form

**37. (1)** La forme d'un contrat n'est approuvée en application de l'article 36 qu'aux deux conditions suivantes :

- a) la Bourse de contrats à terme sur marchandises dépose auprès de la Commission copie de toutes les stipulations de ce contrat;
- b) sauf ordre contraire du directeur, la Bourse de contrats à terme sur marchandises, par l'entremise d'un mandataire en Ontario que celle-ci désigne, met toutes les stipulations des contrats à la disposition des personnes ou compagnies inscrites.

Dépôt des stipulations des contrats auprès de la Commission et consultation par l'entremise d'un mandataire

Idem

(2) Des copies des modifications ou des ajouts apportés aux stipulations de contrats sont déposées auprès de la Commission et transmises sans délai au mandataire désigné par la Bourse des contrats à terme sur marchandises, dès leur approbation par le conseil d'administration de la Bourse des contrats à terme sur marchandises.

Idem

(3) Le directeur ne doit pas approuver la forme d'un contrat sans avoir été informé par la Bourse des contrats à terme sur marchandises du nom et de l'adresse du mandataire désigné pour l'application du paragraphe (1).

Idem

(4) La Bourse des contrats à terme sur marchandises avise le directeur, dans les cinq jours, de tout changement de nom ou d'adresse du mandataire désigné pour l'application du paragraphe (1). L.R.O. 1980, chap. 78, art. 37.

Dispense

**38. (1)** La Commission, saisie de la demande présentée à cet effet par la personne ou la compagnie intéressée, peut décider qu'une opération envisagée n'est pas subordonnée à l'application de l'article 22 ou 33 si elle est convaincue que la décision n'aura pas pour effet de porter atteinte à l'intérêt public, et elle peut imposer les conditions jugées nécessaires.

Décision définitive

(2) La décision de la Commission, prévue au présent article, est définitive et n'est pas susceptible d'appel. L.R.O. 1980, chap. 78, art. 38.

#### **PARTIE XI RÉVOCATION DE L'INSCRIPTION OU DE LA RECONNAISSANCE DES BOURSES DE CONTRATS À TERME SUR MARCHANDISES ET DE L'APPROBATION DE LA FORME DES CONTRATS**

**39. (1)** La Commission, lorsqu'elle juge qu'une telle mesure est conforme à l'intérêt public et sous réserve des conditions qu'elle peut imposer, peut, au moyen d'une ordonnance pour la période qui y est fixée, radier l'inscription prévue à la partie VII, ou révoquer la reconnaissance prévue à la partie X, de toute

Ordonnance de révocation de l'inscription ou de la reconnaissance des Bourses de contrats à terme sur marchandises ou de l'approbation de la forme

of a contract under Part X for such period as is specified in the order.

Temporary  
order

(2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, that shall not be for longer than fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. R.S.O. 1980, c. 78, s. 39.

## PART XII TRADING GENERALLY

Statement to  
be furnished  
to prospec-  
tive customer

40. (1) Every registered dealer or adviser shall furnish each prospective customer prior to the opening of an account with a written statement in the form prescribed under the regulations which will,

- (a) explain the nature of, and risks inherent in trading in contracts and obligations assumed by the customer upon entering a contract;
- (b) advise the client to request and study the terms and conditions of the contract; and
- (c) furnish details concerning commissions and other charges levied by the dealer or adviser.

Terms and  
conditions

(2) Except where the Director by order modifies the requirement, every registered dealer or advisor upon the request of a client shall furnish the client with a copy of all current terms and conditions of any contract the form of which has been accepted by the Director under Part X. R.S.O. 1980, c. 78, s. 40.

Minimum  
margin  
required

41. (1) Subject to subsections (2) and (3), every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed under the by-laws, rules or regulations of the commodity futures exchange upon which the contract is traded.

Idem

(2) Subject to subsection (3), where the Commission has made an order with respect to levels of margin under section 20, every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin

Bourse de contrats à terme sur marchandises, ou l'approbation de la forme d'un contrat prévue à la partie X.

(2) L'ordonnance prévue au paragraphe (1) est subordonnée à la tenue d'une audience préalable, à moins que, de l'avis de la Commission, le délai requis pour la tenue de l'audience n'ait pour effet de porter atteinte à l'intérêt public, auquel cas la Commission peut rendre une ordonnance provisoire pour une période d'au plus quinze jours à compter de la date où elle est rendue. L'ordonnance peut toutefois être prorogée pendant le délai que la Commission juge nécessaire, si cette dernière ne reçoit pas les renseignements nécessaires au cours de la période de quinze jours. L.R.O. 1980, chap. 78, art. 39.

Ordonnance  
provisoire

## PARTIE XII OPÉRATIONS—DISPOSITIONS GÉNÉRALES

40. (1) Tout courtier ou conseiller inscrit fournit à chaque client éventuel, avant l'ouverture de son compte, une déclaration écrite rédigée selon la formule prescrite par les règlements. Cette déclaration :

Déclaration  
destinée  
au client  
éventuel

- a) explique la nature des opérations sur contrats ainsi que les risques inhérents et les obligations assumées par le client par la conclusion d'un contrat;
- b) conseille au client de se faire communiquer et d'étudier les stipulations du contrat;
- c) donne des précisions sur les commissions et autres frais perçus par le courtier ou le conseiller.

(2) Sauf ordre contraire du directeur, tout courtier ou conseiller inscrit fournit au client, à la demande de celui-ci, une copie de toutes les stipulations de tout contrat dont le directeur a approuvé la forme aux termes de la partie X. L.R.O. 1980, chap. 78, art. 40.

Stipulations

41. (1) Sous réserve des paragraphes (2) et (3), le courtier inscrit qui agit à titre de mandataire relativement à une opération portant sur un contrat à terme sur marchandises, exige du client le versement d'une couverture au moins égale au montant minimal fixé par les règlements administratifs, les règles ou les règlements de la Bourse des contrats à terme sur marchandises dans laquelle le contrat est négocié.

Couverture  
minimale  
requis

(2) Sous réserve du paragraphe (3), lorsque la Commission a rendu une ordonnance relative aux niveaux de couverture prévus à l'article 20, le courtier inscrit qui agit à titre de mandataire relativement à une opération portant sur un contrat à terme sur marchandises

Idem

of not less than the minimum prescribed thereunder.

Margin  
greater than  
minimum

(3) Despite subsections (1) and (2), a registered dealer may require from the customer a margin greater than that prescribed under subsection (1) or (2). R.S.O. 1980, c. 78, s. 41.

Confirmation  
of trade re  
commodity  
futures  
contract

42. (1) Every registered dealer who has acted as an agent in connection with any trade in a commodity futures contract, including a trade upon the exercise of a commodity futures option, shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the date of the transaction;
- (b) the commodity and quantity bought or sold;
- (c) the commodity futures exchange upon which the contract was traded;
- (d) the delivery month and year;
- (e) the price at which the contract was entered into;
- (f) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade; and
- (g) the name of the salesperson, if any, in the transaction.

Coded  
identification

(2) For the purposes of clauses (1) (f) and (g), a person or company or a salesperson may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesperson will be furnished to the customer on request.

Filing of  
code

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

Disclosure of  
clients

(4) Every dealer who has acted as agent in connection with any trade in a commodity futures contract shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the commodity was bought or sold. R.S.O. 1980, c. 78, s. 42.

exige du client le versement d'une couverture au moins égale au montant minimal prescrit par cette ordonnance.

(3) Malgré les paragraphes (1) et (2), le courtier inscrit peut exiger du client le versement d'une couverture supérieure au montant minimal fixé aux termes du paragraphe (1) ou (2). L.R.O. 1980, chap. 78, art. 41.

Couverture  
supérieure  
au montant  
minimal

42. (1) Le courtier inscrit qui a agi à titre de mandataire relativement à des opérations portant sur un contrat à terme sur marchandises, y compris l'opération lors de la levée d'une option sur contrat à terme sur marchandises, envoie sans délai par courrier affranchi ou remet sans délai au client une confirmation écrite de la transaction énonçant :

- a) la date de la transaction;
- b) la marchandise et la quantité achetées ou vendues;
- c) la Bourse de contrats à terme sur marchandises dans laquelle des opérations ont été effectuées sur le contrat;
- d) le mois et l'année de livraison;
- e) le prix auquel le contrat a été conclu;
- f) le cas échéant, le nom du courtier auquel le courtier inscrit a eu recours pour être son mandataire aux fins d'effectuer l'opération;
- g) le cas échéant, le nom du représentant qui est intervenu dans la transaction.

Confirmation  
de l'opéra-  
tion relative  
à un contrat  
à terme sur  
marchandises

(2) Pour l'application des alinéas (1) f) et g), une personne, une compagnie ou un représentant peut être identifié, dans une confirmation écrite, au moyen d'un code ou de symboles, si la confirmation porte aussi la mention que le nom de la personne, de la compagnie ou du représentant sera communiqué au client sur demande.

Identifi-  
cation codée

(3) Lorsqu'une personne ou une compagnie utilise, dans la confirmation visée au paragraphe (1) un code ou des symboles à des fins d'identification, elle dépose sans délai le code ou les symboles avec leur signification, et avise la Commission, dans les cinq jours, de tout changement apporté, y compris les codes ou les symboles et leur signification qui ont été ajoutés.

Dépôt du  
code

(4) Le courtier qui a agi à titre de mandataire relativement à des opérations portant sur un contrat à terme sur marchandises divulgue immédiatement à la Commission, à la demande de celle-ci, le nom de la personne ou de la compagnie qui a acheté ou vendu la marchandise, ou qui a servi d'intermédiaire dans l'achat ou la vente. L.R.O. 1980, chap. 78, art. 42.

Divulgence  
de l'identité  
des clients

Statement of  
purchase and  
sale

**43.** Every registered dealer who has acted as an agent in connection with a liquidating trade in a commodity futures contract shall promptly send by prepaid mail or deliver to the customer in addition to the written confirmation required under section 42, a statement of purchase and sale setting forth,

- (a) the dates of the initial transaction and liquidating trade;
- (b) the commodity and quantity bought and sold;
- (c) the commodity futures exchange upon which the contracts were traded;
- (d) the delivery month and year;
- (e) the prices on the initial transaction and on the liquidating trade;
- (f) the gross profit or loss on the transactions;
- (g) the commission; and
- (h) the net profit or loss on the transactions. R.S.O. 1980, c. 78, s. 43.

Monthly  
statement

**44.** So long as any unexpired and unexercised commodity futures option or open commodity futures contract is outstanding in a customer's account, every registered dealer shall promptly send by prepaid mail or deliver to each customer a written monthly statement, setting forth,

- (a) the opening cash balance for the month in the customer's account;
- (b) all deposits, credits, withdrawals and debits to the customer's account;
- (c) the cash balance in the customer's account;
- (d) each unexpired and unexercised commodity futures option;
- (e) the striking price of each unexpired and unexercised commodity futures option;
- (f) each open commodity futures contract;
- (g) the price at which each open commodity futures contract was entered into. R.S.O. 1980, c. 78, s. 44.

Confirmation  
of trade re  
commodity  
futures  
option

**45.** (1) Every registered dealer who has acted as an agent in connection with any trade in a commodity futures option shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction setting forth,

**43.** Le courtier inscrit qui a agi à titre de mandataire relativement à la liquidation d'un contrat à terme sur marchandises, envoie sans délai par courrier affranchi ou remet sans délai au client outre la confirmation écrite prévue à l'article 42, un relevé des achats et ventes énonçant :

- a) la date de la transaction initiale et celle de la liquidation;
- b) la marchandise et la quantité achetées et vendues;
- c) la Bourse de contrats à terme sur marchandises dans laquelle les contrats ont été négociés;
- d) le mois et l'année de livraison;
- e) le prix lors de la transaction initiale et le prix lors de la liquidation;
- f) le bénéfice brut ou la perte brute relatifs aux transactions;
- g) la commission;
- h) le bénéfice net ou la perte nette relatifs aux transactions. L.R.O. 1980, chap. 78, art. 43.

Relevé des  
achats et  
ventes

**44.** Tant qu'il reste dans le compte du client une option sur contrat à terme sur marchandises qui est en cours et non levée, ou un contrat à terme sur marchandises en cours, le courtier inscrit envoie sans délai par courrier affranchi ou remet sans délai à chaque client un relevé mensuel énonçant :

- a) le solde d'ouverture en espèces au compte du client pour le mois;
- b) tous les dépôts, crédits, retraits et débits qui figurent au compte du client;
- c) le solde en espèces au compte du client;
- d) chaque option sur contrat à terme sur marchandises qui est en cours et non levée;
- e) le prix de levée de chaque option sur contrat à terme sur marchandises qui est en cours et non levée;
- f) chaque contrat à terme sur marchandises en cours;
- g) le prix auquel chaque contrat à terme sur marchandises en cours a été conclu. L.R.O. 1980, chap. 78, art. 44.

Relevé  
mensuel

**45.** (1) Le courtier inscrit qui a agi à titre de mandataire relativement à des opérations portant sur une option sur un contrat à terme sur marchandises envoie sans délai par courrier affranchi ou remet sans délai au client une confirmation écrite de la transaction énonçant :

Confirmation  
de l'opéra-  
tion relative  
à une option  
sur contrat à  
terme sur  
marchan-  
dises

- (a) the date of the transaction;
- (b) the type and number of commodity futures options;
- (c) the commodity futures exchange upon which the contract was traded;
- (d) the premium;
- (e) the commodity futures contract that is the subject of the commodity futures option;
- (f) the delivery month and year of the commodity futures contract that is the subject of the commodity futures option;
- (g) the declaration date;
- (h) the striking price;
- (i) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade;
- (j) the commission, if any, charged in respect of the trade; and
- (k) the name of the salesperson, if any, in the transaction.

Coded  
identification

(2) For the purposes of clauses (1) (i) and (k), a person or company or a salesperson may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesperson will be furnished to the customer on request.

Filing of  
code

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

Disclosure  
by agent

(4) Every dealer who has acted as agent in connection with any trade in a commodity futures option shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or through whom the commodity futures option was obtained. R.S.O. 1980, c. 78, s. 45.

Segregation  
of funds

46. (1) All money, securities, property and proceeds of loans received or advanced by a registered dealer to margin, guarantee or secure the trades or contracts of customers and all funds accruing to customers, shall be segregated for the benefit of the customers for

- a) la date de la transaction;
- b) le type et le nombre d'options sur contrats à terme sur marchandises;
- c) la Bourse de contrats à terme sur marchandises dans laquelle des opérations ont été effectuées sur le contrat;
- d) le prix de l'option;
- e) le contrat à terme sur marchandises qui fait l'objet de l'option sur contrat à terme sur marchandises;
- f) le mois et l'année de livraison du contrat à terme sur marchandises qui fait l'objet de l'option sur contrat à terme sur marchandises;
- g) la date d'échéance;
- h) le prix de levée;
- i) le cas échéant, le nom du courtier auquel le courtier inscrit a eu recours pour être son mandataire aux fins d'effectuer l'opération;
- j) le cas échéant, la commission exigée pour l'opération;
- k) le cas échéant, le nom du représentant qui est intervenu dans la transaction.

(2) Pour l'application des alinéas (1) i) et k), une personne, une compagnie ou un représentant peut être identifié, dans une confirmation écrite, au moyen d'un code ou de symboles, si la confirmation porte aussi la mention que le nom de la personne, de la compagnie ou du représentant sera communiqué au client sur demande.

Identifi-  
cation codée

(3) Lorsqu'une personne ou une compagnie utilise, dans la confirmation visée au paragraphe (1), un code ou des symboles à des fins d'identification, elle dépose sans délai le code ou les symboles avec leur signification, et avise la Commission, dans les cinq jours, de tout changement apporté, y compris les codes ou les symboles et leur signification qui ont été ajoutés.

Dépôt du  
code

(4) Le courtier qui a agi à titre de mandataire relativement à des opérations portant sur une option sur un contrat à terme sur marchandises divulgue immédiatement à la Commission, à la demande de celle-ci, le nom de la personne ou de la compagnie auprès de laquelle ou par l'intermédiaire de laquelle a été prise l'option sur ce contrat à terme sur marchandises. L.R.O. 1980, chap. 78, art. 45.

Divulgence  
par le man-  
dataire

46. (1) Les sommes d'argent, les valeurs mobilières, les biens et les produits des prêts reçus ou avancés par le courtier inscrit pour couvrir ou garantir les opérations ou les contrats de clients, ainsi que les fonds s'accumulant au profit des clients, sont mis à part au

Fonds  
réservés

whom they are held, and the dealer shall separately account for all such money, securities, property, proceeds and funds so received or advanced, and shall not knowingly commingle such money, securities, property, proceeds and funds with the dealer's own money, securities, property and funds.

Application

(2) Subsection (1) does not apply to securities or property that are subject to a lien or charge in favour of the registered dealer under a written agreement, in the form prescribed by the regulations, to secure loans referred to in subsection (1).

Commingling of segregated funds

(3) Money, securities, property, proceeds and funds segregated under subsection (1) for the benefit of customers may be commingled.

Registered dealer not to use funds

(4) No registered dealer shall knowingly use money, securities, property, proceeds or funds received from, advanced to or held for any customer to margin, guarantee or secure the trades or contracts or to secure or extend the credit of any customer other than the customer for whom such money, securities, property, proceeds or funds are held.

Residual financial interest

(5) Despite subsection (1), a registered dealer may have a residual financial interest in a customer's account and, from time to time, may advance from the dealer's own funds sufficient funds to prevent any and all customer's accounts from becoming undermargined.

Exemption on terms and conditions

(6) Upon application by an interested person or company, the Commission may exempt any registered dealer or class of registered dealers from subsection (1) or (4), on such terms and conditions as in the opinion of the Commission provide reasonable protection for customers.

Exception

(7) Despite subsection (1), where a registered dealer has a residual financial interest in a customer's account or has advanced the dealer's own funds to prevent any customer's account from becoming undermargined, the dealer may draw upon that account or any other accounts of the same customer to the dealer's own order to the extent of the dealer's residual financial interest therein or to the extent of the actual advances made. R.S.O. 1980, c. 78, s. 46.

Reports

47. Every registered dealer shall deliver to the Commission, at such time or times as the Commission may require, reports as to transactions in contracts on the dealer's own account or on behalf of any other person or company in such form as the Commission may prescribe. R.S.O. 1980, c. 78, s. 47.

profit des clients pour lesquels ils sont détenus. Le courtier rend compte séparément de ces sommes d'argent, valeurs mobilières, biens, produits et fonds qu'il a reçus ou avancés et ne doit pas sciemment les confondre avec ses propres sommes d'argent, valeurs mobilières, biens et fonds.

(2) Le paragraphe (1) ne s'applique pas aux valeurs mobilières ni aux biens grevés d'un privilège ou d'une charge en faveur du courtier inscrit en vertu d'un accord écrit conclu, selon la formule prescrite par les règlements, en vue de garantir les prêts visés au paragraphe (1).

(3) Les sommes d'argent, les valeurs mobilières, les biens, le produit et les fonds mis à part conformément au paragraphe (1) au profit des clients peuvent être confondus.

(4) Nul courtier inscrit ne doit sciemment utiliser les sommes d'argent, les valeurs mobilières, les biens, le produit ou les fonds reçus d'un client, avancés à celui-ci ou détenus à son profit, pour couvrir ou garantir les opérations ou les contrats d'un client autre que celui pour le compte de qui ils sont détenus ou pour garantir ou augmenter la marge de crédit de ce dernier.

(5) Malgré le paragraphe (1), le courtier inscrit peut avoir un intérêt financier résiduel dans le compte de son client. Il peut, à l'occasion, avancer suffisamment de ses propres fonds pour empêcher que le compte de l'un de ses clients ou les comptes de l'ensemble de ses clients ne manquent de la couverture suffisante.

(6) La Commission saisie de la demande présentée par une personne ou une compagnie intéressée, peut dispenser un courtier inscrit ou une catégorie de courtiers inscrits de l'application du paragraphe (1) ou (4) aux conditions qui, de l'avis de la Commission, assurent une protection raisonnable aux clients.

(7) Malgré le paragraphe (1), le courtier inscrit qui a un intérêt financier résiduel dans le compte d'un client ou qui a avancé de ses propres fonds pour empêcher que le compte de ce client ne manque de la couverture suffisante, peut tirer un montant, à son ordre, sur ce compte ou sur tout autre compte de ce même client, jusqu'à concurrence de son intérêt financier résiduel dans ce compte ou des avances effectivement faites. L.R.O. 1980, chap. 78, art. 46.

47. Le courtier inscrit remet à la Commission, aux dates qu'elle peut fixer, des rapports, rédigés selon la formule que la Commission peut prescrire, sur les transactions portant sur des contrats, effectuées pour son propre compte ou pour le compte d'une autre

Exception

Confusion de fonds séparés

Interdiction au courtier inscrit de faire usage des fonds

Intérêt financier résiduel

Dispense conditionnelle

Exception

Rapports

Order prohibiting calls to residences

**48.** (1) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named in the order to,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any contract.

Hearing

(2) The Director shall not make an order under subsection (1) without giving the person or company affected an opportunity to be heard.

"residence" defined

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

What constitutes calls

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesperson of the person or company calls or telephones on behalf of the person or company. R.S.O. 1980, c. 78, s. 48.

Representations prohibited

**49.** (1) No person or company, with the intention of effecting a trade in a contract, shall make any representation that the person or company or any other person or company,

- (a) will refund all or any of the margin or premium; or
- (b) assume all or any part of the obligation of another person or company under the contract.

Future value

(2) No person or company, with the intention of effecting a trade in a contract, shall give any undertaking, written or oral, relating to the future value of such contract. R.S.O. 1980, c. 78, s. 49.

Use of name of another registrant

**50.** No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless the registrant is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1980, c. 78, s. 50.

Registration not to be advertised

**51.** No person or company shall hold himself, herself or itself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery

personne ou compagnie. L.R.O. 1980, chap. 78, art. 47.

**48.** (1) Le directeur peut, au moyen d'un ordre, suspendre, annuler, restreindre ou assortir de conditions le droit d'une personne ou d'une compagnie nommément désignée dans l'ordre :

- a) de faire une visite à une résidence;
- b) de téléphoner depuis l'Ontario à toute résidence située en Ontario ou ailleurs,

pour y effectuer des opérations sur contrats.

(2) Le directeur ne doit pas donner l'ordre prévu au paragraphe (1) sans donner à la personne ou à la compagnie visée l'occasion d'être entendue.

(3) Dans le présent article, le terme «résidence» s'entend notamment d'un bâtiment ou d'une partie du bâtiment où l'occupant réside de façon permanente ou temporaire, ainsi que des dépendances de ce bâtiment.

(4) Pour l'application du présent article, une personne ou une compagnie est réputée, de façon concluante, avoir fait une visite ou un appel téléphonique, lorsqu'un de ses dirigeants, administrateurs ou représentants a fait une visite ou un appel téléphonique pour le compte de cette personne ou compagnie. L.R.O. 1980, chap. 78, art. 48.

**49.** (1) Nulle personne ou compagnie ne doit, avec l'intention d'effectuer une opération portant sur un contrat, déclarer qu'elle-même ou une autre personne ou compagnie :

- a) remboursera la totalité ou une partie de la couverture ou du prix de l'option;
- b) assumera la totalité ou une partie de l'obligation d'une autre personne ou compagnie aux termes du contrat.

(2) Nulle personne ou compagnie ne doit, avec l'intention d'effectuer une opération portant sur un contrat, prendre un engagement, verbal ou écrit, quant à la valeur future du contrat. L.R.O. 1980, chap. 78, art. 49.

**50.** Nulle personne ou compagnie inscrite ne doit utiliser sur ses papiers à en-tête, formules, annonces publicitaires ou enseignes le nom d'une autre personne ou compagnie inscrite, notamment à titre de correspondant, à moins qu'elle n'en soit associé, dirigeant ou mandataire, ou que l'autre personne ou compagnie inscrite ne l'y ait autorisée par écrit. L.R.O. 1980, chap. 78, art. 50.

**51.** Nulle personne ou compagnie ne doit se présenter comme étant inscrite en faisant imprimer sur une circulaire, une brochure, une annonce publicitaire, une lettre, un télégram-

Ordre interdisant les visites aux résidences

Audience

Définition de «résidence»

Signification du terme «visite»

Déclarations interdites

Valeur à terme

Utilisation du nom d'une autre personne ou compagnie inscrite

Interdiction d'annoncer l'inscription

that the person or company is registered. R.S.O. 1980, c. 78, s. 51.

Holding out  
by unregis-  
tered person

52. No person or company who is not registered shall, either directly or indirectly, hold himself, herself or itself out as being registered. R.S.O. 1980, c. 78, s. 52.

Advertising  
approval by  
Commission

53. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any contract. R.S.O. 1980, c. 78, s. 53.

Submission  
of advertis-  
ing

54. (1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that a registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature that the registered dealer proposes to use in connection with trading in contracts.

Definitions

(2) For the purposes of this section,

"advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; ("annonce publicitaire")

"sales literature" includes records, videotapes and similar material, written matter and all other material, except terms and conditions of contracts and the written statement required under section 40, designed for use in a presentation to a customer or prospective customer, whether such material is given or shown to the customer. ("documents de promotion")

Prohibition  
of adver-  
tising

(3) Where the Commission has issued an order under subsection (1), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Rescission or  
variation of  
order

(4) Where an order has been made under subsection (1), the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. R.S.O. 1980, c. 78, s. 54.

me ou autre papier une mention à cet effet. L.R.O. 1980, chap. 78, art. 51.

52. Nulle personne ou compagnie qui n'est pas inscrite ne doit se présenter, directement ou indirectement, comme étant inscrite. L.R.O. 1980, chap. 78, art. 52.

53. Nulle personne ou compagnie ne doit déclarer, verbalement ou par écrit, que la Commission s'est prononcée, de quelque façon que ce soit, sur la situation financière, sur l'aptitude ou sur la conduite d'une personne ou compagnie inscrite ou sur la valeur d'un contrat. L.R.O. 1980, chap. 78, art. 53.

54. (1) Après avoir donné au courtier inscrit l'occasion d'être entendu, et une fois convaincue que les antécédents de ce courtier inscrit en matière d'annonces publicitaires et d'utilisation des documents de promotion permettent de conclure raisonnablement que la mesure s'impose pour la protection du public, la Commission peut ordonner au courtier inscrit de lui remettre, au moins sept jours avant de les utiliser, copie de toutes les annonces publicitaires et de tous les documents de promotion qu'il se propose d'utiliser dans le cadre d'opérations sur contrats.

(2) Les définitions qui suivent s'appliquent au présent article.

«annonce publicitaire» S'entend notamment des annonces télévisées et radiodiffusées, de même que des annonces publiées dans les journaux et les revues, et de toutes les autres annonces généralement diffusées par la voie des médias. («advertising»)

«documents de promotion» S'entend notamment des disques, des bandes magnétoscopiques et autres supports de même nature, des écrits ou de toute autre documentation, à l'exception des stipulations des contrats et de la déclaration prévue à l'article 40, destinés à être présentés aux clients ou aux clients éventuels, peu importe que cette documentation leur soit ou non remise ou montrée. («sales literature»)

(3) Lorsque la Commission a rendu une ordonnance en vertu du paragraphe (1), le directeur peut interdire l'utilisation des annonces publicitaires et des documents de promotion qui lui ont été remis, ou en subordonner l'utilisation à certaines suppressions ou modifications.

(4) La Commission, saisie de la requête présentée par le courtier inscrit après la date de l'ordonnance rendue en vertu du paragraphe (1), peut annuler ou modifier l'ordonnance si, à son avis, la mesure n'a pas pour effet de porter atteinte à l'intérêt public. L.R.O. 1980, chap. 78, art. 54.

Usurpation  
de titre par  
une personne  
non inscrite

Approbation  
de la publi-  
cité par la  
Commission

Publicité  
soumise à  
un examen

Définitions

Annonces  
publicitaires  
interdites

Annulation  
ou modifica-  
tion de l'or-  
donnance

### PART XIII ENFORCEMENT

Offences,  
general

**55. (1)** Every person or company that,

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (b) makes a statement in any application, release, report, return, financial statement, or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) otherwise contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1980, c. 78, s. 55 (1); 1989, c. 72, s. 33.

Defence

(2) No person or company is guilty of an offence under clause (1) (a) or (b) if the person or company, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation. R.S.O. 1980, c. 78, s. 55 (2).

Directors and  
officers

(3) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of such company or person who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000, or to imprisonment for a term of not more than one year. R.S.O. 1980, c. 78, s. 55 (3); 1989, c. 72, s. 36, *part*.

### PARTIE XIII APPLICATION DE LA LOI

Infractions  
en général

**55. (1)** Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 1 000 000 \$ et d'un emprisonnement d'au plus un an, ou d'une seule de ces peines, toute personne ou compagnie qui :

- a) lors de la présentation d'un document, d'une preuve ou d'un renseignement fournis, en application de la présente loi ou des règlements, à la Commission, à son mandataire, au directeur ou à toute personne chargée d'une enquête ou d'une vérification aux termes de la présente loi, fait une déclaration qui, au moment où elle est faite et à la lumière des circonstances dans lesquelles elle est faite, constitue une présentation inexacte des faits;
- b) dans une demande, un communiqué, un rapport, un compte rendu, un état financier ou un autre document dont le dépôt ou la production sont requis par la présente loi ou les règlements, fait une déclaration qui, au moment où elle est faite et à la lumière des circonstances dans lesquelles elle est faite, constitue une présentation inexacte des faits;
- c) contrevient, de toute autre manière, à la présente loi ou aux règlements;
- d) omet d'obtempérer ou de se conformer à une directive donnée, à une décision ou à une ordonnance rendues ou à une condition exigée aux termes de la présente loi ou des règlements. L.R.O. 1980, chap. 78, par. 55 (1); 1989, chap. 72, art. 33.

(2) Nulle personne ou compagnie n'est coupable de l'infraction visée à l'alinéa (1) a) ou b) si elle ignorait et ne pouvait savoir en faisant preuve de diligence raisonnable que la déclaration constituait une présentation inexacte des faits. L.R.O. 1980, chap. 78, par. 55 (2).

Moyen de  
défense

(3) Dans le cas où une compagnie ou une personne autre qu'une personne physique est coupable d'une infraction visée au paragraphe (1), chacun de ses administrateurs ou de ses dirigeants qui a autorisé ou permis l'infraction ou y a donné son acquiescement est également coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 1 000 000 \$ ou d'un emprisonnement d'au plus un an. L.R.O. 1980, chap. 78, par. 55 (3); 1989, chap. 72, art. 36, *en partie*.

Administra-  
teurs et  
dirigeants

Consent of  
Minister

**56.** No proceedings under section 55 shall be instituted except with the consent or under the direction of the Minister. R.S.O. 1980, c. 78, s. 56.

Information  
containing  
more than  
one offence

**57.** An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1980, c. 78, s. 57.

Execution of  
warrant is-  
sued in  
another  
province

**58.** (1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, the Ontario Court (Provincial Division) within the jurisdiction of which that person is or is suspected to be may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all police officers to execute the warrant and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

Prisoner in  
transit

(2) Any police officer of Ontario or of any other province or territory of Canada who is passing through Ontario and who has in custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1980, c. 78, s. 58, *revised*.

Order for  
compliance

**59.** (1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, despite the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court (General Division) for an order,

- (a) directing the person or company to comply with the decision or provision or restraining the person or company

**56.** Il ne doit être intenté aucune poursuite dans le cadre de l'article 55, sans le consentement ou une directive du ministre. L.R.O. 1980, chap. 78, art. 56.

Consente-  
ment du  
ministre

**57.** La dénonciation relative à une contravention à la présente loi peut énoncer une ou plusieurs infractions. Les dénonciations, assignations, mandats, déclarations de culpabilité ou autres actes de procédure relatifs à une telle poursuite ne sont pas inacceptables ni insuffisants du fait qu'ils portent sur plusieurs infractions. L.R.O. 1980, chap. 78, art. 57.

Dénonciation  
contenant  
des  
infractions  
multiples

**58.** (1) Lorsqu'un juge provincial, un magistrat ou un juge d'une autre province ou d'un territoire du Canada décerne un mandat en vue de l'arrestation d'une personne sous l'accusation d'avoir contrevenu à une disposition d'une loi de cette province ou de ce territoire semblable à la présente loi, la Cour de l'Ontario (Division provinciale), dans le ressort de laquelle cette personne se trouve ou est soupçonnée de se trouver, peut, sur preuve satisfaisante de l'écriture du juge provincial, du magistrat ou du juge qui a décerné le mandat, y apposer un visa selon la formule prescrite par les règlements. Le mandat ainsi visé constitue, pour son porteur, pour toute personne à laquelle il était initialement destiné et pour tout agent de police, une autorisation suffisante pour exécuter le mandat et pour amener la personne arrêtée aux termes de ce mandat hors de l'Ontario ou en quelque lieu que ce soit en Ontario, et pour l'arrêter de nouveau en quelque lieu que ce soit en Ontario.

Exécution  
d'un mandat  
extra-provin-  
cial

(2) Tout agent de police de l'Ontario ou de toute autre province ou d'un territoire du Canada, qui passe en Ontario avec, sous sa garde, une personne arrêtée dans une autre province ou un territoire aux termes d'un mandat visé conformément au paragraphe (1), a le droit, en vertu de ce mandat, de détenir, d'amener et d'arrêter de nouveau l'accusé en quelque lieu que ce soit en Ontario, sans avoir à faire la preuve du mandat ni de son visa. L.R.O. 1980, chap. 78, art. 58, *révisé*.

Prisonnier en  
transit

**59.** (1) Lorsque la Commission est d'avis qu'une personne ou une compagnie ne s'est pas conformée ou contrevient à une décision ou à une disposition de la présente loi ou des règlements, la Commission peut, malgré l'imposition d'une peine à l'égard de l'omission ou de la contravention et en outre de tout autre droit qu'elle peut avoir, présenter une requête demandant à un juge de la Cour de l'Ontario (Division générale) désigné par le juge en chef de la Cour de l'Ontario (Division générale) de rendre une ordonnance enjoignant :

Ordonnance  
de faire

- a) à la personne ou à la compagnie de se conformer à la décision ou à la disposition, ou de s'abstenir d'y contrevenir;

from violating the decision or provision; and

- (b) directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease violating any decision or provision,

and, upon the application, the judge may make such order or such other order as the judge thinks fit. R.S.O. 1980, c. 78, s. 59 (1), *revised*.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1980, c. 78, s. 59 (2).

Limitation period

**60.** (1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1980, c. 78, s. 60.

#### PART XIV GENERAL PROVISIONS

Refunds

**61.** Where,

- (a) an application for registration or renewal of registration is abandoned;
- (b) an application for recognition of a commodity futures exchange is abandoned; or
- (c) an application for acceptance of the form of contract is abandoned,

the Director may, upon the application of the person or company who made the application recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or such part thereof as he or she considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1980, c. 78, s. 61.

Admissibility in evidence of certified statements

**62.** A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;

- b) aux administrateurs et aux cadres dirigeants de la personne ou de la compagnie de veiller à ce que cette dernière se conforme à la décision ou à la disposition ou cesse d'y contrevenir.

Le juge saisi de la requête peut rendre l'ordonnance demandée ou toute autre ordonnance qu'il estime indiquée. L.R.O. 1980, chap. 78, par. 59 (1), *révisé*.

(2) Il peut être interjeté appel à la Cour divisionnaire de l'ordonnance rendue en vertu du paragraphe (1). L.R.O. 1980, chap. 78, par. 59 (2).

Appel

**60.** (1) Est irrecevable la poursuite intentée en vertu de la présente partie plus d'un an après que les faits sur lesquels elle se fonde ont été portés à la connaissance de la Commission.

Prescription

(2) Est irrecevable la poursuite intentée devant la Commission en vertu de la présente loi plus de deux ans après que les faits sur lesquels elle se fonde ont été portés à la connaissance de la Commission. L.R.O. 1980, chap. 78, art. 60.

Idem

#### PARTIE XIV DISPOSITIONS GÉNÉRALES

**61.** Dans les cas de désistement :

Remboursement

- a) d'une demande d'inscription ou de renouvellement d'inscription;
- b) d'une demande de reconnaissance d'une Bourse de contrats à terme sur marchandises;
- c) d'une demande d'approbation de la forme d'un contrat,

le directeur saisi de la demande présentée par la personne ou la compagnie qui a fait la demande initiale peut recommander au trésorier de l'Ontario de rembourser la totalité des droits versés lors du dépôt de la demande initiale, ou la partie de ces droits qu'il estime juste et raisonnable. Le trésorier peut effectuer ce remboursement par prélèvement sur le Trésor. L.R.O. 1980, chap. 78, art. 61.

**62.** Les déclarations qui se présentent comme étant attestées par la Commission, par un de ses membres ou par le directeur, et qui ont trait à un des faits suivants :

Admissibilité en preuve des déclarations certifiées

- a) l'inscription ou l'absence d'inscription d'une personne ou d'une compagnie;
- b) le dépôt ou l'absence de dépôt d'un document ou d'une pièce qui doivent ou peuvent être déposés;

- (c) a matter in addition to a matter set out in clauses (a) and (b) that pertains to registration, non-registration, filing or non-filing, or to any person, company, document or material; or
- (d) the date of the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof, or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1980, c. 78, s. 62, *revised*.

Material  
available for  
inspection

**63.** (1) Where this Act or the regulations require that material be filed, the filing shall be effected by depositing the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission.

Idem

(2) Despite subsection (1), the Commission may hold material or any class of material required to be filed by this Act in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. R.S.O. 1980, c. 78, s. 63.

Immunity of  
Commission  
and officers

**64.** (1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any employee or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity re  
intended  
compliance

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

Liability of  
Crown

(3) Subsection (1) does not, by reason of subsections 5 (2) and (3) of the *Proceedings*

- c) outre les faits mentionnés aux alinéas a) et b), un fait qui se rapporte à l'inscription, au dépôt ou à l'absence d'inscription ou de dépôt ou aux personnes, aux compagnies, aux documents ou aux pièces visés;
- d) la date à laquelle les faits sur lesquels est fondée l'instance ont été portés à la connaissance de la Commission,

sont, à toutes fins et dans la mesure où elles sont pertinentes, admissibles en preuve dans les actions, instances ou poursuites sans qu'il soit nécessaire de faire la preuve de la qualité officielle ou de l'authenticité de la signature de la personne qui les a certifiées. L.R.O. 1980, chap. 78, art. 62, *révisé*.

**63.** (1) Le dépôt des pièces qu'exigent la présente loi ou les règlements se fait par le dépôt des pièces auprès de la Commission. Sous réserve du paragraphe (2), les pièces ainsi déposées sont mises à la disposition du public par la Commission pendant les heures de bureau de celle-ci.

Pièces à la  
disposition  
du public

(2) Malgré le paragraphe (1), la Commission peut retenir en tant que confidentielles les pièces ou catégories de pièces dont le dépôt est exigé par la présente loi, tant que la Commission estime que ces pièces renferment des renseignements de nature privée, notamment d'ordre financier ou personnel, et que les avantages inhérents à leur non-divulgaration dans l'intérêt de la personne ou de la compagnie touchée, l'emportent sur le principe selon lequel les pièces déposées auprès de la Commission sont mises à la disposition du public à des fins de consultation. L.R.O. 1980, chap. 78, art. 63.

Idem

**64.** (1) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre la Commission ou un de ses membres, un employé ou un mandataire de la Commission, pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu des fonctions ou des pouvoirs conférés par la présente loi ou par un règlement ou pour une négligence ou une omission commise dans l'exercice de bonne foi de ces fonctions ou pouvoirs.

Immunité de  
la Commission  
et des  
fonction-  
naires

(2) Nulle personne ou compagnie n'a de droits ou recours et aucune instance ne peut être reçue ou intentée contre une personne ou une compagnie relativement aux actes accomplis ou aux omissions commises par cette dernière avec l'intention de se conformer à la présente loi, aux règlements ou à une directive, à une décision, à un ordre, à une ordonnance ou à une autre exigence prévus par la présente loi ou les règlements.

Immunité  
lorsqu'il y a  
intention de  
se conformer  
à la loi

(3) Malgré les paragraphes 5 (2) et (3) de la *Loi sur les instances introduites contre la*

Responsabi-  
lité de la  
Couronne

*Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1980, c. 78, s. 64.

*Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par la Commission ou une personne visée au même paragraphe. L.R.O. 1980, chap. 78, art. 64.

## Regulations

65. The Lieutenant Governor in Council may make regulations,

1. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
2. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category;
3. governing the furnishing of information to the public or to the Commission by a registrant in connection with contracts or trades therein;
4. designating any person or company or any class of persons or companies that shall not be required to obtain registration as an adviser;
5. designating any goods, article, service, right or interest, or class thereof, a commodity;
6. prescribing conditions for the conduct of the business of a commodity futures exchange;
7. prescribing conditions precedent to the recognition of self-regulatory bodies under section 15;
8. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
9. prescribing the documents, certificates, reports, releases, statements, agreements and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
10. prescribing the practice and procedure of investigations under sections 7 and 9;
11. prescribing the forms for use under this Act and the regulations;

65. Le lieutenant-gouverneur en conseil Règlements peut, par règlement :

1. prescrire les modalités relatives aux demandes d'inscription et de renouvellement d'inscription, et prévoir l'expiration des inscriptions;
2. classer les personnes ou compagnies inscrites en catégories, et prescrire les conditions d'inscription de chaque catégorie;
3. régir la communication de renseignements au public ou à la Commission, par toute personne ou compagnie inscrite, relativement aux contrats ou aux opérations qui s'y rattachent;
4. désigner les personnes ou compagnies ou catégories de celles-ci qui ne sont pas tenues d'obtenir une inscription à titre de conseillers;
5. désigner comme marchandises des biens, objets, services, droits ou intérêts, ou catégories de ceux-ci;
6. prescrire les conditions d'exercice des activités d'une Bourse de contrats à terme sur marchandises;
7. prescrire les conditions préalables à la reconnaissance des organismes autonomes, prévue à l'article 15;
8. prescrire les droits payables à la Commission, notamment les frais de dépôts et les droits relatifs aux demandes d'inscription, aux vérifications effectuées par la Commission, et autres droits requis pour l'application de la présente loi et des règlements;
9. prescrire les documents, certificats, rapports, communiqués, déclarations, relevés, accords et autres précisions s'y rapportant, dont la présente loi et les règlements exigent le dépôt, la production ou la remise;
10. prescrire les règles régissant la tenue des enquêtes menées aux termes des articles 7 et 9 et la procédure qui s'y rattache;
11. prescrire les formules à utiliser pour l'application de la présente loi et des règlements;

12. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company in respect of a contract;
13. prescribing the form and content of the written statement required by section 40;
14. prescribing the form and content of the written agreement referred to in subsection 46 (2);
15. respecting the practice and procedure for the segregation of customers' money, securities, property, proceeds and funds under section 46;
16. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. R.S.O. 1980, c. 78, s. 65.

12. régir le contenu et la distribution des pièces et de la publicité, sous forme écrite, imprimée ou visuelle, qu'une personne ou une compagnie peut distribuer ou utiliser relativement à un contrat;
13. prescrire la formule et le contenu de la déclaration écrite prévue à l'article 40;
14. prescrire la formule et le contenu de l'accord écrit prévu au paragraphe 46 (2);
15. fixer les modalités régissant la façon de mettre à part des sommes d'argent, des valeurs mobilières, des biens, des produits et des fonds des clients, conformément à l'article 46;
16. autoriser la Commission ou le directeur à soustraire une personne ou une compagnie à l'application des règlements, ou à modifier ces derniers quant à leur application à une personne ou à une compagnie. L.R.O. 1980, chap. 78, art. 65.

Commission's discretion to revoke or vary its decision

66. The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking or varying any decisions made by it under this Act or the regulations. R.S.O. 1980, c. 78, s. 66.

66. La Commission, lorsqu'elle est d'avis que la mesure n'aurait pas pour effet de porter atteinte à l'intérêt public, peut, par ordonnance et aux conditions qu'elle peut imposer, révoquer ou modifier une décision qu'elle a rendue aux termes de la présente loi ou des règlements. L.R.O. 1980, chap. 78, art. 66.

Pouvoir discrétionnaire de la Commission d'annuler ou de modifier sa décision



# Commodity Futures Act

## *Loi sur les contrats à terme sur marchandises*

### REGULATION 90

#### GENERAL

##### INTERPRETATION

1. (1) Subject to subsection (2), the words and terms used herein that are defined in section 1 of the Act are used in this Regulation as therein defined unless otherwise defined in this Regulation or the context otherwise requires.

(2) The words and terms used herein that are defined in any Part of the Act are used as therein defined in the sections of this Regulation that relate to the subject-matter of that Part unless otherwise defined in this Regulation or the context otherwise requires. R.R.O. 1990, Reg. 90, s. 1.

##### DESIGNATION OF COMMODITIES

2. The following are designated as commodities under paragraph 5 of section 65 of the Act:

1. Government National Mortgage Association Certificates guaranteed by the Government National Mortgage Association of the United States of America.
2. Treasury bills, bonds and other evidences of indebtedness of the government of a country or of a political subdivision thereof.
3. Commercial paper of companies incorporated in the United States of America rated A-1 by Standard and Poor's Corporation and P-1 by Moody's Investor Service Inc.
4. Equity securities deliverable under a contract providing for the future delivery of equity securities traded on a commodity futures exchange registered by the Commission under section 19 of the Act.
5. Interests that are cash values deliverable under contracts traded on a commodity futures exchange, the amounts of which are determined with reference to,
  - i. indices of rates of interest,
  - ii. indices of prices or values, pertaining to any commodities, goods, articles, services, rights or interests or any combination thereof,
  - iii. a rate of interest, or
  - iv. an average of quotations for a rate of interest or for a series of rates of interest.
6. Interests that are cash values deliverable under contracts traded on a commodity futures exchange, the amounts of which are determined with reference to values of commodities. R.R.O. 1990, Reg. 90, s. 2.

##### EXECUTION AND CERTIFICATION OF DOCUMENTS

3. (1) Except where otherwise provided in the Act or this Regulation, every document required or permitted to be filed with the Commission by an individual that is required to be signed or certified shall be

manually signed and shall include below the signature the name of the individual in typewritten or printed form.

(2) Subject to subsection (3), every document required or permitted to be filed with the Commission by a person, other than an individual, or company that is required to be signed or certified shall be manually signed by an officer or director of the person or company or, subject to subsection (4), by the attorney or agent of the person or company and shall include below the signature the name of the officer, director, attorney or agent in typewritten or printed form.

(3) Where a partner signs or certifies a document required or permitted to be filed with the Commission on behalf of a professional partnership, the partner is not required to sign his or her name but if an individual other than a partner signs or certifies, the individual shall sign his or her name manually and the document shall include below the signature the name of the individual in typewritten or printed form.

(4) Where a document required or permitted to be filed with the Commission by any person or company has been executed by an attorney or agent of the person or company, a duly completed power of attorney or document of authority authorizing the signing of the document shall be filed with the document unless the Director permits the filing of the document without the power of attorney or document of authority. R.R.O. 1990, Reg. 90, s. 3.

##### FEES

4. Fees shall be paid to the Treasurer of Ontario in accordance with Schedule 1. R.R.O. 1990, Reg. 90, s. 4.

#### PART I INVESTIGATIONS

5. The following practices and procedures apply to investigations conducted under the Act:

1. Every summons issued by a person under subsection 7 (4) or section 9 of the Act shall be served personally on the individual summoned who shall be paid the like fees and allowances for attendance before the person as are paid for the attendance of a witness summoned to attend before the Ontario Court (General Division).
2. Every summons to a witness to appear before a person appointed to make an investigation under section 7 or 9 of the Act shall be in Form 1.
3. The service of a summons on a witness, the payment or tender of fees and allowances to the witness and the service of a notice on a witness may be proved by an affidavit in Form 2. R.R.O. 1990, Reg. 90, s. 5.

#### PART II CONDITIONS OF RECOGNITION OF SELF REGULATORY BODIES

6. No association or organization shall be eligible for recognition as a self regulatory body under section 15 of the Act unless it has passed by-laws or regulations that impose requirements and conditions, applicable to its members who are dealers or advisers, that are deemed by the Commission to be substantially equivalent to the applicable requirements and conditions of registration set out in Part III. R.R.O. 1990, Reg. 90, s. 6.

### PART III REGISTRATION

#### INTERPRETATION

#### 7. (1) In this Part,

“active assets” means money and the market value of assets readily convertible into money;

“adjusted liabilities” means total liabilities minus, without duplication, the sum of,

- (a) cash,
- (b) debit balances with deposit institutions,
- (c) the cash surrender value of life insurance where the registrant is the beneficiary,
- (d) the market value of securities that the registrant owns or has contracted to purchase, other than by way of commodity futures contract, and that have a margin rate of 5 per cent or less,
- (e) interest accrued to the registrant with respect to the securities referred to in clause (d), and
- (f) the market value of securities that have a margin rate of 5 per cent or less,
  - (i) included in non-segregated accounts of customers, partners, shareholders or dealers, or
  - (ii) held as collateral for secured loans receivable,

not exceeding the debit balance of the account or the secured loan receivable;

“anniversary date” means the day and month on which the current registration or renewal of registration was granted, but where any doubt exists, such date shall be determined by the Director;

“associate”, where used to indicate a relationship with any person or company means,

- (a) any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
- (b) any partner of that person or company,
- (c) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity, and
- (d) any relative of such person, including the person’s spouse, or any relative of the person’s spouse, who has the same home as such person;

“Canadian Commodity Futures Examination” means an examination relating to the Canadian Commodity futures industry that has been prepared and is administered by the Canadian Securities Institute and is so designated by that Institute;

“Commodity Supervisors’ Examination” means an examination relating to the supervision of a dealer’s business that has been prepared by and is administered by the Canadian Securities Institute and is so designated by that Institute;

“dealer’s covering transaction” means a trade by a registered dealer in a commodity under a commodity futures contract or the acquisition by a registered dealer of a commodity futures option to enter into a commodity futures contract for the purpose of offsetting a price risk incidental to the dealer’s ownership or cash or spot purchases or sales of a commodity, where the dealer, in relation to the commodity under the commodity futures contract,

- (a) assumes or acquires the right to assume,
  - (i) a short position that offsets the dealer’s ownership or purchase at a fixed price of,
    - (A) a like quantity of the same commodity that the dealer is obliged to deliver under the commodity futures contract, or
    - (B) an equivalent quantity of any other commodity, if the fluctuations in value of that commodity are substantially related to the fluctuations in value of the commodity that the dealer is obliged to deliver under the commodity futures contract, or
  - (ii) a long position that offsets the dealer’s forward sale at a fixed price of,
    - (A) a like quantity of the same commodity that the dealer is obliged to take delivery of under the commodity futures contract, or
    - (B) an equivalent quantity of any other commodity, if the fluctuations in value of that commodity are substantially related to the fluctuations in value of the commodity that the dealer is obliged to take delivery of under the commodity futures contract, and
- (b) effects liquidating trades in relation to positions assumed in the circumstances set out in clause (a);

“deposit institution” means,

- (a) a bank to which the *Bank Act* (Canada) applies,
- (b) a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*,
- (c) a credit union or credit union league incorporated under the provisions of the *Credit Unions and Caisses Populaires Act*, and
- (d) a member commercial bank of the Federal Reserve System of the United States of America;

“director”, where used in relation to a person includes a person acting in a capacity similar to that of a director of a company;

“financial institution” means,

- (a) the Government of Canada, the government of any province or territory of Canada, any municipal corporation, crown corporation or public board or commission in Canada,
- (b) the Bank of Canada, a bank to which the *Bank Act* (Canada) applies, any Quebec savings bank, and the pension funds of such banks,
- (c) a trust corporation or insurance company that is licensed to do business in Canada and has a minimum paid up capital and surplus of \$5,000,000, and the pension funds of such companies,
- (d) a credit union or credit union league with a minimum paid up capital and surplus of \$5,000,000,

- (e) a mutual fund with net assets of \$5,000,000, and
- (f) a company, other than a dealer, having a minimum net worth of \$25,000,000 on the last audited balance sheet of the company, if the balance sheet is available for inspection by the Commission, and any trustee pension plan of such a company;

“liquid capital” means the amount by which active assets exceed the sum of total liabilities, but liquid capital may be increased by adding,

- (a) the loan value of any securities delivered pursuant to a subordinated loan agreement in the form prescribed by the Commission that are not included in the accounts, and
- (b) non-current liabilities fully secured by mortgages on real estate owned by the registrant;

“loan value” means the market value of such securities less the applicable margin requirements;

“margin”, “margin rate” and “margin requirements”, where used with respect to,

- (a) contracts, other than contracts entered into to effect a dealer’s covering transaction, means the minimum dollar amount per contract required under the rules and regulations of the commodity futures exchange on which the contract was entered into or required by the Commission that must be deposited with a member of the commodity futures exchange for the purpose of ensuring performance of obligations under the contract, and includes “original margin” or “initial margin”, being the amount that must be deposited on entering the contract, and “variation margin”, being the amount that must be deposited by a party to the contract to restore margin on deposit to original margin or initial margin when the margin on deposit falls to or under the required maintenance level because of adverse movement in the price of the commodity,
- (b) cash commodities, including securities and not including the currencies of Canada and the United States of America, means,
- (i) the margin, margin rate or margin requirements established for the commodity by the Toronto Stock Exchange under by-laws of the Exchange, or
- (ii) where by-laws referred to in subclause (i) are not applicable, 5 per cent of the market value of the commodity, if the owner of the commodity is a party to a contract representing a short hedge for a like quantity of the commodity, or 20 per cent of the market value of the commodity if the owner is not a party to such a contract;

“margin deficiency”, where used in relation to a customer’s account, including a customer’s account in a group of two or more customers’ accounts for which trades are effected through an omnibus account means, for the purpose of calculating net free capital, the amount by which deposits in a customer’s account are, at any time, below,

- (a) the maintenance level of deposits established by a commodity futures exchange or clearing house for the account, or
- (b) where a maintenance level is not established for the account, the original margin or initial margin established by a commodity futures exchange for the account;

“market value”, where used with respect to,

- (a) a commodity futures contract, means the settlement price on the relevant date or last trading day prior to the relevant date,
- (b) a security, means

- (i) where a security is listed and posted for trading on a stock exchange,

(A) the bid price, or

(B) if the security is sold short, the ask price,

as shown on the exchange quotation sheets as of the close of business on the relevant date or last trading day prior to the relevant date, as the case may be, subject to an appropriate adjustment where an unusually large or unusually small quantity of securities is being valued, and

- (ii) where a security is not listed and posted for trading on a stock exchange, a value determined in accordance with subsection (3);

“minimum free capital” means the applicable amount determined in accordance with section 14;

“National Commodity Futures Examination” means an examination relating to the commodity futures industry that has been prepared by the Chicago Board of Trade and is administered in the United States of America by the National Association of Securities Dealers, Inc. and is administered in Canada by the Canadian Securities Institute;

“net free capital” means liquid capital after deducting,

- (a) the amount required to provide full margin for,

- (i) cash commodities, other than securities, owned by the registrant,

- (ii) securities owned by the registrant and securities sold short by the registrant,

- (iii) firm trading accounts, and

- (b) the amount sufficient to provide for any margin deficiencies on,

- (i) secured loans receivable,

- (ii) customers’ accounts,

- (iii) partners’ or shareholders’ accounts, other than trading,

- (iv) secured loans payable by the registrant if the collateral is held by other than the registrant or a financial institution, and

- (v) any other liquid capital items;

“omnibus account” means an account carried by a dealer for another dealer in which the transactions of two or more persons or companies are combined and effected in the name of the second mentioned dealer without disclosure of the identity of such persons or companies;

“total liabilities” means all liabilities including,

- (a) adequate provision for income taxes, and

- (b) other accruals,

but excluding,

- (c) debts, the payment of which is postponed in favour of other creditors of the registrant pursuant to a subordination agreement in form approved by the Commission, and

- (d) deferred income taxes relating to non-active assets;

"working capital" means the excess of current assets over current liabilities determined in accordance with generally accepted accounting principles.

(2) For the purposes of this Regulation, where a recommendation has been made in the Handbook of the Canadian Institute of Chartered Accountants which is applicable in the circumstances, the terms "generally accepted accounting principles", "auditor's report" and "generally accepted auditing standards" mean the principles, report and standards, respectively, recommended in the Handbook.

(3) The market value of a security not listed and posted for trading on a stock exchange shall be determined as follows:

1. Subject to paragraphs 2, 3 and 4, the registrant shall assign a reasonable value on the basis of values shown on published market reports or inter-dealer quotation sheets on the relevant date or the last trading day prior to the relevant date.
2. The registrant may vary a value from that shown on published market reports or inter-dealer quotation sheets where, in light of all the circumstances, some other value would be more appropriate.
3. The Director may require that a different value from that determined under paragraph 1 or 2 be assigned, where in light of all the circumstances, some other value would be more appropriate.
4. Where no published market report or inter-dealer quotation sheet exists with respect to the security, the security shall be assigned a market value of zero unless the Director agrees otherwise.

(4) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

(5) A company shall be deemed to be controlled by another person or company or by two or more companies if,

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company or by or for the benefit of the other companies; and
- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

(6) A company shall be deemed to be a subsidiary of another company if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more companies each of which is controlled by that other, or
  - (iii) two or more companies each of which is controlled by that other; or

- (b) it is a subsidiary of a company that is that other's subsidiary. R.R.O. 1990, Reg. 90, s. 7.

#### CATEGORIES OF REGISTRATION

8. (1) Every registrant who is a dealer shall elect to be classified into one of the following categories:

1. Futures commission merchant.
2. Introducing broker but only a person or company resident in Ontario and not a registrant or an associate of a registrant under the *Securities Act* may elect to be classified in this category.
3. Non-resident carrying broker but only a person or company not resident in Ontario, who is registered as a futures commission merchant with the Commodity Futures Trading Commission under the *Commodity Exchange Act* (U.S.) and who is a clearing member of an exchange recognized by the Commission under section 34 of the Act or designated as a contract market under the *Commodity Exchange Act* (U.S.) may elect to be classified in this category.

(2) Every registrant who is an adviser shall elect to be classified into one or more of the following categories:

1. Commodity trading adviser, but only a person or company that holds himself, herself or itself out as engaging in the business of advising others either directly or through publications or writings as to trading in contracts but that does not purport to design such advice to accord with the financial objectives of specific customers, or intends so to act, may elect to be classified in this category.
2. Commodity trading counsel, but only a person or company that engages in or holds himself, herself or itself out as engaging in the business of advising others as to trading in specific contracts or that is primarily engaged in giving continuous advice as to trading in contracts on the basis of the particular objectives of each customer, or intends so to act, may elect to be classified in this category.
3. Commodity trading manager, but only a person or company that has elected to be classified as a commodity trading counsel and that engages in or holds himself, herself or itself out as engaging in the business of managing trading in contracts for customers through discretionary authority granted by one or more customers, or intends so to act, may elect to be classified in this category. R.R.O. 1990, Reg. 90, s. 8.

#### CONDITIONS OF REGISTRATION—GENERAL

9. (1) No registration or renewal of registration shall be granted unless the applicant has complied with the applicable requirements of this Part at the time of the granting of the registration or renewal of registration.

(2) Each registrant shall comply with the applicable requirements of this Part and the failure to do so shall be considered by the Commission in any proceeding under section 24 of the Act.

(3) No registrant or partner, officer or associate of a registrant shall have a direct or indirect interest in any other registrant without the approval of the Director. R.R.O. 1990, Reg. 90, s. 9.

#### NON-RESIDENT CARRYING BROKERS CONDITIONS OF REGISTRATION

10. (1) Every non-resident carrying broker shall appoint an agent for service in Ontario, acceptable to the Director, and shall not change such agent without the prior consent of the Director.

(2) Every non-resident carrying broker shall submit to, and have approved by, the Director the document appointing the agent referred to in subsection (1) and any amendments at any time proposed therein.

(3) Every non-resident carrying broker shall, subject to section 32 of the Act, trade only in contracts for the customers of an introducing broker.

(4) Every non-resident carrying broker that trades in contracts for a customer of an introducing broker shall send, in the non-resident carrying broker's firm name, to the customer of the introducing broker confirmations, statements of purchase and sale and monthly statements relating to such trades.

(5) Every non-resident carrying broker that trades in contracts for a customer of an introducing broker shall forward all funds accruing to the customer as the result of the trades exclusively to the customer or to a person or company designated in writing by the customer but in no event to the introducing broker or any associate of the introducing broker.

(6) Subject to subsection (7), every non-resident carrying broker shall enter into a written guarantee, on terms acceptable to the Director, with each customer of an introducing broker for whom the non-resident carrying broker trades in contracts or with a trust corporation registered under the *Loan and Trust Corporations Act* under which the non-resident carrying broker agrees to pay to any customer of the introducing broker all sums which the introducing broker becomes legally obliged to pay to the customer as damages if such legal liability arises out of the introducing broker's performance of services for the customer in the introducing broker's capacity as a dealer.

(7) Where the Commission is satisfied it would not be prejudicial to the public interest, it may exempt, subject to such terms and conditions as it may impose, a non-resident carrying broker from the requirements of subsection (6).

(8) Subject to subsection (9) and unless the Director is otherwise satisfied as to their availability within a reasonable time to any person lawfully entitled to examine them, every registered non-resident carrying broker shall maintain in Ontario such records as are necessary to record properly the non-resident carrying broker's business transactions and financial affairs in Ontario.

(9) A registered non-resident carrying broker may keep the records referred to in subsection (8) by means of mechanical, electronic or other devices where the registrant,

- (a) takes adequate precautions, appropriate to the means used, to guard against the risk of falsification of the information recorded; and
- (b) provides a means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

(10) An applicant for registration as a non-resident carrying broker shall complete and execute Form 6.

(11) Section 40 and subsection 41 (1) apply with necessary modifications to the renewal of the registration of a non-resident carrying broker and subsections 43 (1) and (2) apply with necessary modifications to the amendment of such registration.

(12) Unless an express reference requires it, no other section of this Regulation other than sections 7, 8, and 9, applies to non-resident carrying brokers. R.R.O. 1990, Reg. 90, s. 10.

## FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

### *Conditions of Registration—Minimum Personnel*

11. (1) Subject to subsection (2), every futures commission merchant and introducing broker shall have available to serve customers not less than,

- (a) two individuals,
  - (i) each of whom is registered as a partner or officer of the dealer or as a salesperson, or
  - (ii) one of whom is registered as a partner or officer of the dealer or as a salesperson and one of whom is the individual responsible for discharging the obligations of a person or company registered as a partner of the dealer; and
- (b) either of,
  - (i) a third individual as is referred to in clause (a), or
  - (ii) an employee of the dealer authorized by an individual referred to in clause (a) to accept customers' unsolicited instructions in his or her absence and designated by the Director under subsection 22 (3) of the Act as non-trading,

but the dealer need only make available two of such individuals at any time in normal circumstances and during usual business hours.

(2) The Director may exempt, subject to such terms and conditions as the Director may impose, a futures commission merchant or an introducing broker from the requirement of subsection (1) where the Director is satisfied that adequate service will be available to the customers of the dealer although fewer individuals than are required under subsection (1) are available to serve customers. R.R.O. 1990, Reg. 90, s. 11.

## FUTURES COMMISSION MERCHANTS

### *Conditions of Registration— Trading for Customers of Introducing Broker*

12. (1) Every registered futures commission merchant that trades in contracts for a customer of an introducing broker and receives the money, securities or property to guarantee such trades or contracts shall send, in the futures commission merchant's firm name, to the customer of the introducing broker confirmations, statements of purchase and sale and monthly statements relating to such trades.

(2) Every registered futures commission merchant that trades in contracts for a customer of an introducing broker and receives the money, securities or property to guarantee such trades or contracts shall forward all funds accruing to the customer as the result of the trades exclusively to the customer or to a person or company designated in writing by the customer but in no event to the introducing broker or any associate of the introducing broker.

(3) Subject to subsection (4), every registered futures commission merchant that trades in contracts for the customers of an introducing broker and receives the money, securities or property to guarantee such trades or contracts shall enter into a written guarantee on terms acceptable to the Director, with each customer of an introducing broker for whom the futures commission merchant trades in contracts or with a trust corporation registered under the *Loan and Trust Corporations Act* under which the futures commission merchant agrees to pay to any customer of the introducing broker all sums which the introducing broker becomes legally obliged to pay to the customer as damages if such legal liability arises out of the introducing broker's performance of services for the customer in the introducing broker's capacity as a dealer.

(4) Where the Commission is satisfied it would not be prejudicial to the public interest, it may exempt, subject to such terms and conditions as it may impose, a futures commission merchant from the requirements of subsection (3). R.R.O. 1990, Reg. 90, s. 12.

#### INTRODUCING BROKERS

##### *Conditions of Registration—Transmission of Customers' Margin to Non-Resident Carrying Broker of Registered Futures Commission Merchant; Letter to Customers*

13. (1) Every introducing broker shall use the introducing broker's best efforts to ensure that the introducing broker's customers guarantee or secure their trades or contracts by means of cheques drawn in favour only of the registered non-resident carrying broker or registered futures commission merchant that trades for the customers of the introducing broker but if a customer,

- (a) pays money directly to the introducing broker;
- (b) makes a cheque payable directly to the introducing broker; or
- (c) delivers securities or property directly to the introducing broker,

the introducing broker shall forthwith transmit the money, proceeds of the cheque, securities or property directly and exclusively to the registered non-resident carrying broker or registered futures commission merchant.

(2) No introducing broker shall effect trades for customers through an omnibus account.

(3) Every introducing broker shall, prior to the opening of an account, provide the prospective customer with a letter, in form acceptable to the Director, that,

- (a) describes the operation of the introducing broker and the introducing broker's relationship to the non-resident carrying broker or registered futures commission merchant that trades in contracts for the introducing broker's customers which description shall relate to, at least, those matters referred to in subsections 10 (4) and (5) or subsections 12 (1) and (2); and
- (b) advises the prospective customer of the guarantee referred to in subsection 10 (6) or subsection 12 (3), its terms and the identity and address of the trust corporation, if any, that is a party to the guarantee. R.R.O. 1990, Reg. 90, s. 13.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—Capital Requirement*

14. (1) Subject to subsection (2), every futures commission merchant shall maintain a minimum free capital that is the maximum amount, if any, that is deductible under any clause of the insurance policies required under section 20, plus the greater of,

- (a) \$75,000 in net free capital; or
- (b) the sum of,
  - (i) 10 per cent of the first \$2,500,000 of adjusted liabilities, plus
  - 8 per cent of the next \$2,500,000 of adjusted liabilities, plus
  - 7 per cent of the next \$2,500,000 of adjusted liabilities, plus
  - 6 per cent of the next \$2,500,000 of adjusted liabilities, plus

5 per cent of adjusted liabilities in excess of \$10,000,000, and

(ii) the greater of,

(A) up to the first \$20,000,000 in market value of commodity futures contracts the sum of,

- 1. 2 per cent of the market value for contracts, other than for securities, representing a long position or the total number of commodity futures contracts, other than for securities, representing a short position in each commodity, whichever is the greater, carried for all customers' and firm accounts excluding exempted contracts and contracts entered into to effect a dealer's covering transaction, and

- 2. the amount arrived at by the application of the securities futures capital charge,

to a maximum of \$100,000, or

(B) the sum of,

- 1. 1/2 of 1 per cent of the market value of the total number of commodity futures contracts, other than for securities, representing a long position or the total number of commodity futures contracts, other than for securities, representing a short position in each commodity, whichever is the greater, carried for all customers' and firm accounts excluding exempted contracts and contracts entered into to effect a dealer's covering transaction, and

- 2. the amount arrived at by the application of the securities futures capital charge,

but the amount arrived at under subclauses (i) and (ii) shall be increased by the aggregate of all amounts arrived at by application of the customer concentration factor and of the commodity concentration factor, where,

(iii) the customer concentration factor is derived by calculating for each customer or group of related customers and for firm accounts the maximum aggregate price movement if the market value of all commodity futures contracts, excluding exempted contracts, held at the relevant time for that customer or group of related customers or for firm accounts were to change by the standard daily limit moves applicable to such contracts respectively, and if, for any customer or group of related customers or for firm accounts, the amount so calculated, less any funds provided in excess of margin requirements, exceeds an amount equal to 15 per cent of the liquid capital of the dealer, then the excess shall be included in the determination of the customer concentration factor, and

(iv) the commodity concentration factor is derived as to each commodity underlying commodity futures contracts held by the dealer, whether for customer or for firm account, by multiplying  $x$  by  $y$ , where,

(A)  $x$  is the number of commodity futures contracts equaling the greater of the long or the short position of commodity futures contracts in that commodity so held by the dealer at the relevant time, and

(B)  $y$  is the price movement resulting when such a commodity futures contract changes in market value by two standard daily limit moves,

and, where the amount so determined as to commodity futures contracts in any particular commodity, other than

exempted contracts, and after deducting funds provided in excess of margin requirements as calculated under subsection (6) is, for five consecutive trading days, in excess of an amount equal to 40 per cent of the liquid capital of the dealer, then an amount equal to the excess as at the close of business on the fifth of such consecutive trading days shall be included in the determination of the commodity concentration factor.

(2) A futures commission merchant is not required to maintain the amount calculated in accordance with clause (1) (b) with respect to those contracts resulting from trades executed on the instructions of,

- (a) another registered futures commission merchant; or
- (b) a registered introducing broker who transmits the money, securities or property to secure the trades or contracts directly to a registered non-resident carrying broker with whom the futures commission merchant places the order.

(3) Every introducing broker shall maintain a minimum free capital of the maximum amount, if any, that is deductible under any clause of the insurance policies required under section 20, plus \$50,000 in working capital.

(4) Every adviser shall maintain a minimum free capital of the maximum amount, if any, that is deductible under any clause of the insurance policies required under section 20, plus \$5,000 in working capital or such greater amount as the Director considers necessary where the adviser exercises control over clients' money, securities or property.

(5) Subsection (4) does not apply to a commodity trading adviser who advises others through publications or writings and who,

- (a) provides no advice as to trading in contracts that is designed or purports to be designed to accord with the financial objectives of specific clients; and
- (b) does not exercise control over clients' money, securities or property.

(6) For the purpose of subclause (1) (b) (iv) the determination of funds provided in excess of margin requirements shall be the aggregate of amounts determined with respect to each account in which commodity futures contracts for the particular commodity are held on a short or long basis, whichever is relevant for purposes of the calculation of the commodity concentration factor, with the amount to be included for each such account being the lesser of,

- (a) the funds provided in excess of margin requirements held in that account at the relevant time; or
- (b) the amount by which the price of the net long or short position of futures contracts for the relevant commodity held in that account would change as a consequence of two standard daily limit moves.

(7) For the purpose of this section,

"exempted contract" means,

- (a) spreads in the same commodity and entered into on the same commodity futures exchange,
- (b) short hedge positions where a warehouse receipt or other evidence of title for a like quantity of the commodity to be delivered under the contract is held by the dealer, and
- (c) commodity futures contracts held for financial institutions;

"securities futures capital charge" means that amount representing 10 per cent of the margin requirement for the total number of commodity futures contracts for securities representing a long position or the total number of commodity futures contracts for securities representing a short position in each security, whichever is the greater, carried for all customers' and firm accounts excluding exempted contracts and contracts entered into to effect a dealer's covering transaction.

(8) Despite this section, every registrant who is also a registrant under the *Securities Act* shall maintain the minimum free capital required of the registrant under the regulations under that Act. R.R.O. 1990, Reg. 90, s. 14.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—Reports*

15. (1) Every adviser or introducing broker that is not a member in good standing of a self-regulatory body recognized by the Commission under section 15 of the Act shall deliver to the Commission within ninety days after the end of the adviser's or introducing broker's financial year a copy of the adviser's or introducing broker's audited financial statement for the financial year prepared in accordance with generally accepted accounting principles.

(2) Every financial statement required to be delivered under subsection (1) shall include,

- (a) an income statement, a statement of surplus and a statement of changes in financial position, each for the financial year; and
- (b) a balance sheet as at the end of the financial year signed by one director of the registrant.

(3) The financial statement required by subsection (1) shall be audited in accordance with generally accepted auditing standards.

(4) Every futures commission merchant that is not a member in good standing of a self-regulatory body recognized by the Commission under section 15 of the Act shall deliver to the Commission,

- (a) within ninety days after the futures commission merchant's financial year an audited report prepared in accordance with Form 3, or, if holding current registration under the *Securities Act*, an audited report prepared in accordance with Form 9 of the regulations under that Act; and
- (b) within thirty days after the end of each three month period in the futures commission merchant's financial year, other than the final such period, an unaudited report prepared in accordance with Form 3, or, if holding current registration under the *Securities Act*, an unaudited report prepared in accordance with Form 9 of the regulations under that Act.

(5) The report required by clause (4) (a) shall be audited in accordance with generally accepted auditing standards and the audit requirements published by the Commission.

(6) The financial statements required by this section shall be reported upon by a person, acceptable to the Commission, who is the auditor of the registrant or is an accountant eligible for appointment as the auditor. R.R.O. 1990, Reg. 90, s. 15.

16. Every registrant, except non-resident carrying brokers, shall, if the Commission at any time requests, enter into a subordination agreement in the form prescribed by the Commission. R.R.O. 1990, Reg. 90, s. 16.

17. Every futures commission merchant and introducing broker that is not a member in good standing of a self-regulatory body recognized

by the Commission under section 15 of the Act shall deliver to the Commission within fifteen business days of the end of each month a monthly financial and position report in such form as is prescribed by the published requirements of the Commission. R.R.O. 1990, Reg. 90, s. 17.

18. (1) Every registrant, except non-resident carrying brokers, that is not a member in good standing of a self-regulatory body recognized by the Commission under section 15 of the Act shall issue a direction to an auditor instructing the auditor to conduct any audit requested by the Commission or the Director during the registrant's registration or renewal of registration and shall deliver a copy of the direction to the Commission,

- (a) with the registrant's application for registration; and
- (b) immediately after the registrant changes auditors.

(2) Where the Commission or the Director requests an auditor to conduct an audit of the financial affairs of a registrant in accordance with a direction referred to in subsection (1), all fees related to the audit shall be paid by the registrant. R.R.O. 1990, Reg. 90, s. 18.

19. (1) Every audit required under section 18 of the Act shall relate to the affairs of the registrant and shall be performed in accordance with generally accepted auditing standards and the audit requirements published by the Commission.

(2) Every report of an auditor required under section 18 of the Act shall be prepared in accordance with generally accepted auditing standards.

(3) No registrant shall withhold, destroy or conceal any information or documents or otherwise fail to cooperate with a reasonable request made by an auditor of a registrant in the course of an audit required under section 18 of the Act. R.R.O. 1990, Reg. 90, s. 19.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—Insurance*

20. (1) Except where the Director is satisfied in a particular case that reduced or no coverage would not be prejudicial to the public interest, every futures commission merchant shall maintain insurance by means of,

- (a) a broker's blanket bond with trading losses coverage; or
- (b) a comprehensive dishonesty, disappearance and destruction policy with trading losses coverage,

on terms acceptable to the Director, in an amount of not less than \$200,000, or such larger amount as is indicated to be necessary by the statement referred to in section 21.

(2) Except where the Director is satisfied in a particular case that reduced or no coverage would not be prejudicial to the public interest, every introducing broker shall maintain insurance by means of,

- (a) a broker's blanket bond with trading losses coverage; or
- (b) a comprehensive dishonesty, disappearance and destruction policy with trading losses coverage,

on terms acceptable to the Director, in an amount of not less than \$100,000 or such larger amount as is indicated to be necessary by the statement referred to in section 21.

(3) Except where the Director is satisfied in a particular case that reduced or no coverage would not be prejudicial to the public interest, every adviser shall maintain insurance on terms acceptable to the Director in an amount of not less than \$10,000 or such larger amount as is indicated to be necessary by the statement referred to in section 21. R.R.O. 1990, Reg. 90, s. 20.

21. (1) Except for members of a self-regulatory body recognized by the Commission under section 15 of the Act and non-resident carrying brokers, every person or company applying for registration or renewal of registration as a dealer or adviser shall deliver to the Director with the application a certified statement that full consideration has been given by the directors of the dealer or adviser to the amount of insurance necessary to cover insurable risks in the business of the applicant and that either,

- (a) the minimum amount of coverage required by this Regulation is sufficient; or
- (b) the minimum amount of coverage required by this Regulation is not sufficient but that an indicated amount of coverage would be sufficient.

(2) No registration or renewal of registration shall be granted where in the opinion of the Director the minimum amount of insurance required by this Regulation or, where a larger amount is indicated in a certified statement referred to in subsection (1), the amount stated in the statement is not sufficient. R.R.O. 1990, Reg. 90, s. 21.

22. Every registrant shall forthwith notify the Commission in writing of,

- (a) any change in; or
- (b) any claim, exceeding the lesser of \$25,000 or 5 per cent of the minimum free capital that is required to be maintained under section 14, made under,

the provisions of any insurance policy maintained pursuant to the requirements of this Part. R.R.O. 1990, Reg. 90, s. 22.

#### FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

##### *Conditions of Registration—Compensation Fund*

23. At such time as, in the opinion of the Commission, the number of registered dealers in Ontario, other than non-resident carrying brokers, is sufficient to sustain the operation of an adequate compensation fund or funds the Commission may require every dealer, except non-resident carrying brokers, to participate in such a fund approved by the Commission and established by a self-regulatory body recognized by the Commission under section 15 of the Act or a trust corporation registered under the *Loan and Trust Corporations Act*. R.R.O. 1990, Reg. 90, s. 23.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—Record Keeping*

24. (1) Every registered futures commission merchant, introducing broker or adviser shall maintain books and records necessary to record properly the futures commission merchant's, introducing broker's or adviser's business and financial affairs.

(2) All records may be kept by means of mechanical, electronic or other devices where such method of record keeping is not prohibited under other applicable legislation and the registrant,

- (a) takes adequate precautions, appropriate to the means used, to guard against the risk of falsification of the information recorded; and
- (b) provides a means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.
- (3) Without restricting the generality of subsection (1), a registrant, other than a registered non-resident carrying broker, shall maintain each of the following books and records that, in the opinion of the Director, are appropriate to the registrant's business:
1. Blotters, or other records of original entry, containing an itemized daily record of all trades in contracts, all receipts and disbursements of cash, all other debits and credits, the account for which each transaction was effected, the date of the transaction, the commodity futures exchange, the name of the dealer, if any, used by the registrant as the registrant's agent to effect the trade and in the case of trades in commodity futures contracts,
    - i. the commodity and quantity bought or sold,
    - ii. the delivery month and year,
    - iii. the price at which the contract was entered into, or in the case of trades in commodity futures options,
    - iv. the type and number,
    - v. the premium,
    - vi. the commodity futures contract that is the subject of the commodity futures option,
    - vii. the delivery month and year of the commodity futures contract that is the subject of the commodity futures option,
    - viii. the declaration date, and
    - ix. the striking price.
  2. Ledgers or other records maintained in detail reflecting all the assets and liabilities, income and expense and capital accounts.
  3. Ledger accounts or other records itemizing separately for each account of every customer all trades in contracts and all other debits and credits to the account setting forth, with respect to all securities and property received to margin, guarantee or to secure the trades or contracts of customers,
    - i. a description of the securities or property received,
    - ii. the date when received,
    - iii. the identity of any deposit institution where such securities or property are segregated,
    - iv. the dates of deposit and withdrawal from such deposit institutions, and
    - v. the date of return of such securities or property to the customer or other disposition thereof, together with the facts and circumstances of such other disposition,

and with respect to any investments of such money, proceeds or funds segregated for the benefit of customers,
  4. Ledgers or other records reflecting,
    - i. money, securities and property which must be segregated for the benefit of customers under section 46 of the Act, and
    - ii. money borrowed and money loaned, together with a record of the collateral therefor and any substitutions in the collateral.
  5. A commodity record or ledger showing separately for each commodity as of the trade date all long positions or short positions in commodity futures contracts carried for the registrant's account or for the account of customers, and, in all cases, the name or designation of the account in which each position is carried.
  6. An adequate record of each order and of any other instruction given or received with respect to a trade in a contract whether executed or unexecuted, showing,
    - i. the terms and conditions of the order or instruction and of any modification or cancellation of the order or instruction,
    - ii. the account to which the order or instruction relates,
    - iii. where the order relates to an omnibus account, the component accounts within the omnibus account on whose behalf the order is to be executed and, if not dictated by the policy referred to in clause 27 (2) (h), the allocation among the component accounts intended on execution,
    - iv. where the order or instruction is placed by an individual other than,
      - A. the person in whose name the account is operated, or
      - B. an individual duly authorized to place orders or instructions on behalf of a customer that is a company,

the name, sales number or designation of the individual placing the order or instruction,
    - v. the time of the entry of the order or instruction, and, where the order is entered pursuant to the exercise of discretionary power of a registrant or any employee of a registrant, a statement to that effect,
    - vi. to the extent feasible, the time of execution or cancellation, and
    - vii. the time of report of execution.
  7. Copies or other records of confirmations required by sections 42 and 45 of the Act, statements of purchase and sale required by
- vi. the date on which such investments were made,
  - vii. the identity of the person or company through or from whom such securities were purchased,
  - viii. the amount invested,
  - ix. a description of the securities invested in,
  - x. the identity of the deposit institution, other dealer or dealer registered under the *Securities Act* where such securities are deposited,
  - xi. the date of liquidation or other disposition and the money received on such disposition, and
  - xii. the identity of the person or company to or through whom such securities were disposed.

section 43 of the Act, monthly statements required by section 44 of the Act and copies of notice of all other debits and credits of money, securities, property and proceeds of loans and other items for the accounts of customers.

8. Subject to subsection 28 (1), a customer record in respect of each amount containing,

- i. the name and address of the beneficial owner and the guarantor, if any, of the account, and
- ii. where trading instructions are accepted from a person or company other than the customer, written authorization or ratification from the customer naming the person or company,

but, in the case of a joint account or an account of a company, such records are required only in respect of the person or persons authorized to transact business for the account.

9. A record of the proof of money balances of all ledger accounts in the form of trial balances and a record of a reasonable calculation of minimum free capital, adjusted liabilities and capital required, prepared for each month within a reasonable time after the month. R.R.O. 1990, Reg. 90, s. 24.

25. Unless otherwise required by applicable legislation to be maintained for a longer period of time,

- (a) documents relating to unexecuted orders or instructions as prescribed by paragraph 6 of subsection 24 (3);
- (b) confirmations as prescribed by sections 42 and 45 of the Act;
- (c) statements of purchase and sale as prescribed by section 43 of the Act; and
- (d) monthly statements as prescribed by section 44 of the Act,

shall be maintained for a period of at least two years, and

- (e) documents relating to executed orders or instructions as prescribed in paragraph 6 of subsection 24 (3) shall be maintained for a period of at least six years and shall be retained in a readily accessible location for the first two years of that six-year period. R.R.O. 1990, Reg. 90, s. 25.

26. (1) Subject to subsection (2), every registrant shall maintain the situs of the registrant's books and records in Ontario.

(2) Where the head office of the registrant is not in Ontario, the registrant shall maintain in Ontario such books and records as are necessary to record properly the registrant's business transactions and financial affairs in Ontario. R.R.O. 1990, Reg. 90, s. 26.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—New Accounts, Supervision and Procedures*

27. (1) No dealer or adviser, other than a non-resident carrying broker, shall be granted registration or renewal of registration unless the dealer or adviser has established a procedure to supervise the conduct of the dealer's or adviser's business and has submitted it to, and has had the procedure approved by, the Director.

(2) The procedure required by subsection (1) shall be set out in writing and shall relate to, at least,

- (a) the acceptance of new accounts;
- (b) the review and endorsement of transactions;
- (c) the regular review of correspondence;
- (d) the regular review of each client's account;
- (e) the receipt and control of clients' money, securities and property, including the authorization, allocation and delivery of clients' securities to deposit institutions as collateral for a loan;
- (f) the investigation of individuals prior to sponsoring applications for registration as a salesperson of a registered dealer or as a partner or officer of a registered dealer or as a partner or officer of a registered adviser, as the case may be;
- (g) the requirements relating to discretionary accounts, if any, including minimum equity levels and prompt approval by a designated partner or officer of each order and frequent review of the account;
- (h) the policy followed with respect to allocation of executed orders among component accounts within omnibus accounts;
- (i) the operation and review of firm trading accounts; and
- (j) the review of the supervisory procedure.

(3) The names and offices of the individuals responsible for the procedure required by subsection (1) shall be filed with the Director on submission of the procedure and thereafter any changes in such names and offices shall be filed with the Director forthwith.

(4) Every dealer and adviser shall forthwith notify the Director in writing of any material change in the procedure required by subsection (1) to supervise the conduct of the dealer's or adviser's business.

(5) Every dealer and adviser shall comply in the procedure to supervise the conduct of the dealer's or adviser's business that has been submitted to the Director.

(6) This section does not apply to registrants who are members of a self-regulatory body recognized by the Commission under section 15 of the Act. R.R.O. 1990, Reg. 90, s. 27.

28. (1) Each registrant that is a dealer, commodity trading counsel or commodity trading manager shall, before accepting the account of a customer, make enquiries that,

- (a) will enable the registrant to establish the identity of the customer and, where appropriate,
  - (i) the credit worthiness of the customer, in accordance with guidelines established by the registrant, and
  - (ii) the reputation of the customer, if information known to the registrant causes doubt whether the customer is of good reputation; and
- (b) will enable the registrant to assess the suitability of trading by the customer in view of the markets in which the customer intends to trade, the scale of trading the customer intends to undertake, and the general financial needs and objectives of the customer.

(2) Every dealer, commodity trading counsel and commodity trading manager shall, as frequently as is appropriate in view of the particular financial circumstances of the customer, obtain, by direct enquiry of the customer or by other means, information enabling the dealer, counsel or manager to determine whether the assessment under clause (1) (b) of the suitability of trading by the customer continues to be accurate.

(3) Clause (1) (b) and subsection (2) do not apply to a dealer who effects a trade on the instructions of a commodity trading manager, another dealer, an adviser registered under the *Securities Act*, or a financial institution.

(4) For the purposes of complying with the requirements of subsection (1) as to obtaining appropriate information concerning new customers, use of such form as is published by the Commission in this respect is sufficient, but other forms or procedures may be used where they are more appropriate.

(5) Despite subsections (1) and (3), where an account is opened and traded by a commodity trading counsel or commodity trading manager on behalf of a customer or customers,

- (a) where the commodity trading counsel or commodity trading manager executes orders in his, her or its own name or identifies his, her or its customer or customers by means of a code or symbols the dealer must satisfy itself as to the credit worthiness of the commodity trading counsel or commodity trading manager but shall not otherwise have any responsibility for the suitability of trading for the customer or customers of the commodity trading counsel or commodity trading manager; and
- (b) where the commodity trading counsel or commodity trading manager executes orders in the name of his, her or its customer with no agreement that payment of the account is guaranteed by the commodity trading counsel or commodity trading manager the dealer shall,
  - (i) obtain full information concerning the customer with a view to determining the credit worthiness of the customer,
  - (ii) obtain a letter of undertaking from the commodity trading counsel or commodity trading manager which letter shall refer to at least the familiarity of such commodity trading counsel or commodity trading manager with applicable rules of account supervision and which letter shall contain at least a covenant to make the investigation contemplated by such rules and to advise, where known, if the customer is,
    - (A) a partner, officer, director, employee or security holder of a dealer,
    - (B) an associate of the individuals referred to in sub-sub-clause (A), or
    - (C) an affiliate of a dealer,

but the dealer shall not have responsibility for determining the suitability of any trade for the customer. R.R.O. 1990, Reg. 90, s. 28.

**29.** (1) In this section, "responsible person" means a commodity trading manager and every individual who is a partner, director or officer of a commodity trading manager together with every affiliate of a commodity trading manager and every individual who is a director, officer or employee of such affiliate or who is an employee of the commodity trading manager, if the affiliate or the individual participates in the formulation of, or has access prior to implementation to, trading decisions made on behalf of or the advice given to the client of the commodity trading manager.

(2) Every commodity trading counsel shall maintain standards directed to ensuring fairness in the allocation of trading opportunities among the commodity trading counsel's customers and a copy of the policies established shall be furnished to each customer and filed with the Commission.

(3) Every commodity trading counsel shall charge clients directly for services and such charge may be based upon the dollar value of the client's portfolio, but not on the value or volume of the transactions initiated for the client and, except with the written agreement of the client, shall not be contingent upon profits or performance.

(4) Every commodity trading manager shall obtain an undertaking from every responsible person not to trade for his, her or its account, as the case may be, or knowingly permit or arrange for any associate to trade, in reliance upon information as to trades made or to be made for the account of a client of the commodity trading manager and the commodity trading manager shall establish and maintain procedures designed to disclose when a responsible person or an associate of a responsible person has contravened the undertaking.

(5) Where there has been a material change in the ownership or control of a commodity trading counsel or where it is proposed that a commodity trading counsel sell or assign the account of a customer in whole or in part to another registrant, the commodity trading counsel shall, prior to such sale or assignment or immediately after such material change, as the case may be, give a written explanation to the customer of the proposal or change and the commodity trading counsel shall inform the customer of the customer's right to withdraw the customer's account. R.R.O. 1990, Reg. 90, s. 29.

**30.** (1) No futures commission merchant shall effect trades on the futures commission merchant's own behalf or for any partner, officer, director or employee of the futures commission merchant or any associate of such persons through an omnibus account maintained for customers other than partners, officers, directors or employees of the futures commission merchant or any associate of such persons.

(2) No futures commission merchant shall effect trades for non-discretionary accounts through an omnibus account maintained for discretionary accounts.

(3) Every futures commission merchant shall require from each of the futures commission merchant's customers for whom trades are effected through an omnibus account not less than that amount of margin that would be required from such customers if their trades were effected through fully disclosed accounts. R.R.O. 1990, Reg. 90, s. 30.

**31.** (1) No registered dealer shall effect trades for a customer through a discretionary account without having secured from the customer prior written authorization defining the extent of the discretionary authority which authority shall,

- (a) subject to subsection (2), have a term of no more than twelve months;
- (b) not be renewable except in writing; and
- (c) be terminable on specified notice by either party.

(2) The prior written authorization referred to in subsection (1) may be of a term longer than twelve months where other arrangements, acceptable to the Director, to ensure the customer's cognizance that the authorization continues in force are followed. R.R.O. 1990, Reg. 90, s. 31.

**32.** No registered dealer shall accept securities as margin except those bonds, debentures or other evidences of indebtedness referred to in subsection 35 (3). R.R.O. 1990, Reg. 90, s. 32.

**33.** (1) Where a registrant maintains a commodity futures account and a securities account for the same customer and the commodity futures account contains an amount of money, securities, property, proceeds and funds in excess of the amount of margin required to be held in the account under section 41 of the Act and the securities account contains a debit balance of \$5,000 or more, the registrant shall transfer to the securities account as much of the excess amount in the commodity

futures account as is necessary to eliminate or, if the excess amount is less than the debit balance amount, to reduce to the greatest extent possible the debit balance in the securities account.

(2) Subsection (1) does not apply to a registrant in respect of a customer's commodity futures and securities accounts where the customer has directed the registrant, in writing or orally, if subsequently confirmed in writing,

- (a) to transfer an excess amount less than the excess amount otherwise required to be transferred under that subsection, or
- (b) not to transfer any excess amount,

from the commodity futures account to the securities account.

(3) In this section, "securities account" means an account on which a customer is charged interest when there is a debit balance in the account. R.R.O. 1990, Reg. 90, s. 33.

**34.** A registrant who maintains a commodity futures account and a securities account for the same customer may make a transfer of any amount of money, securities, property, proceeds and funds in the commodity futures account in excess of the amount of margin required to be held in the account under section 41 of the Act from the commodity futures account to the securities account of the customer if,

- (a) the transfer is made in accordance with a written agreement between the registrant and the customer; and
- (b) the transfer is not a transfer referred to in section 33. R.R.O. 1990, Reg. 90, s. 34.

#### FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

##### *Conditions of Registration—Segregation of Customers' Money, Securities and Property*

**35.** (1) Subject to subsection (2), the segregation of money, securities, property, proceeds or funds required by section 46 of the Act may be satisfied by the deposit of such money, securities, property, proceeds or funds with a registered futures commission merchant or a clearing member of a commodity futures exchange recognized or registered by the Commission or designated by the Commodity Futures Trading Commission as a contract market under the *Commodity Exchange Act* (U.S.) to margin, guarantee or secure the trades or contracts of the customers of a registered dealer.

(2) All money, securities, property, proceeds or funds segregated for the benefit of customers under section 46 of the Act, when deposited by a registered dealer, other than a registered non-resident carrying broker, with a deposit institution or with another dealer shall be deposited under an account name that clearly shows that they are customers' money, securities, property, proceeds or funds.

(3) No registered dealer, other than a registered non-resident carrying broker, shall invest money, proceeds or funds segregated for the benefit of customers under section 46 of the Act except in bonds, debentures, or other evidences of indebtedness,

- (a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United States of America or any state thereof;
- (b) of or guaranteed by a bank listed in Schedule I to the *Bank Act* (Canada) applies, a trust corporation or loan corporation registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*; or

(c) of or guaranteed by a bank which is a member of the Federal Reserve Board in the United States of America,

and maturing not more than one year from the date of purchase.

(4) Any investment of money, proceeds or funds under subsection (3) shall be made through an account or accounts maintained under subsection (1) and proceeds from the sale of such securities shall be redeposited in such account or accounts.

(5) Securities purchased under subsection (3), when deposited by a registered dealer with a deposit institution, with another dealer or with a dealer registered under the *Securities Act* shall be deposited under an account name that clearly shows that they are customers' securities.

(6) Any securities purchased under subsection (3) shall be included in the registered dealer's books and records at values not more than the close of market on the last preceding trading day. R.R.O. 1990, Reg. 90, s. 35.

**36.** Every written agreement referred to in subsection 46 (2) of the Act shall, as it relates to the pledge of a customer's securities or property with a dealer for the purpose of trading in contracts, be in Form 4. R.R.O. 1990, Reg. 90, s. 36.

#### FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS AND ADVISERS

##### *Conditions of Registration—Proficiency Requirements*

**37.** (1) No individual shall be granted registration as a salesperson, as a partner or officer of a registered futures commission merchant or introducing broker unless the individual has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination.

(2) No individual shall be granted registration as a commodity trading adviser or as a partner or officer of a registered commodity trading adviser unless the individual has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination and has been employed performing research in the analysis area of the commodity futures industry for at least two years.

(3) No individual shall be granted registration as a commodity trading counsel or as a partner or officer of a registered commodity trading counsel unless the individual has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination and has been employed performing research in the analysis area of the commodity futures industry for at least three years.

(4) No person, other than an individual, or company shall be granted registration as a partner of a registered commodity trading adviser unless an individual employed by the person or company and responsible for discharging the obligations of the person or company as a partner of the adviser has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination and has been employed performing research in the analysis area of the commodity futures industry for at least two years.

(5) No person, other than an individual, or company shall be granted registration as a partner of a registered commodity trading counsel unless an individual employed by the person or company and responsible for discharging the obligations of the person or company as a partner of the adviser has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination and has been employed performing research in the analysis area of the commodity futures industry for at least three years.

(6) No person, other than an individual, or company shall be granted registration as a partner of a registered futures commission merchant or introducing broker unless an individual employed by the person or com-

pany and responsible for discharging the obligations of the person or company as a partner of the registered dealer has successfully completed the National Commodity Futures Examination and the Canadian Commodity Futures Examination.

(7) The Director may exempt, subject to such terms and conditions as the Director may impose, a person or company from the requirements of this section where in the Director's opinion the person or an individual employed by the person or company and responsible for discharging the obligations of the person or company as registrant has the educational qualifications and experience that are equivalent to those required under this section and it would not be prejudicial to the public interest to do so. R.R.O. 1990, Reg. 90, s. 37.

38. (1) Subject to subsection (2), no dealer except a non-resident carrying broker shall be granted registration unless each individual responsible for supervising the commodity business of that dealer has successfully completed the Commodity Supervisors' Examination.

(2) The Director may exempt, subject to such terms and conditions as the Director may impose, a dealer from the requirements of subsection (1) where in the Director's opinion each individual responsible for supervising the commodity futures business of that dealer has the educational qualifications and experience that are equivalent to those required under subsection (1) and it would not be prejudicial to the public interest to do so. R.R.O. 1990, Reg. 90, s. 38.

#### APPLICATION FOR REGISTRATION

39. (1) An applicant for registration as a futures commission merchant, introducing broker or adviser shall complete and execute Form 5.

(2) An applicant for registration as a,

(a) salesperson; or

(b) partner or officer of a registered futures commission merchant, introducing broker or adviser,

shall complete and execute Form 7, unless the information required by Form 7 has previously been filed with the Commission by the applicant and the information, as filed, is current and correct as of the date of the application.

(3) Where an applicant for registration as a salesperson is being submitted by the applicant in Form 7, the intended employer shall complete and execute a certificate in Form 8 and the certificate shall form a part of the salesperson's application.

(4) Despite subsection (1), where a person or company is registered as a dealer or adviser under the *Securities Act* it may, in lieu of completing and executing Form 5, file a letter with the Director requesting registration as a futures commission merchant or adviser under this Act.

(5) Despite subsection (3), where a salesperson or a partner or officer of a registered dealer or adviser is registered under the *Securities Act* the salesperson, partner or officer may, in lieu of completing and executing Form 7, file a letter with the Director requesting registration as a salesperson or partner or officer of a registered futures commission merchant or adviser under this Act. R.R.O. 1990, Reg. 90, s. 39.

#### RENEWAL OF REGISTRATION

40. (1) Subject to subsections (2) and (2.1), every registration and renewal of registration expires at the end of the day preceding the first anniversary of the granting of the registration or renewal of registration, as the case may be. R.R.O. 1990, Reg. 90, s. 40 (1); O. Reg. 248/92, s. 1 (1).

(2) The registration or renewal of registration of every salesperson, floor trader, partner and officer of a registered dealer expires at the same time as the registration or renewal of registration of the registered dealer. R.R.O. 1990, Reg. 90, s. 40 (2).

(2.1) In the event of an amalgamation or merger of two or more registrants, the registration or renewal of registration of the successor registrant expires at the end of the day preceding the first anniversary of the latest of the dates on which registration or renewal of registration was granted to each of the predecessor registrants. O. Reg. 248/92, s. 1 (2).

(3) Every application for renewal of registration shall be filed no later than thirty days prior to the date on which the registration or renewal of registration expires. R.R.O. 1990, Reg. 90, s. 40 (3).

41. (1) An applicant for renewal of registration as a dealer or adviser shall complete and execute Form 9 or, where the applicant is registered under the *Securities Act*, shall file a letter with the Director requesting renewal of registration under this Act.

(2) An applicant for renewal of registration as a salesperson or as a partner or officer of a registered dealer or adviser shall complete and execute Form 10 or, where the applicant is registered under the *Securities Act*, shall file a letter with the Director requesting renewal of registration under this Act. R.R.O. 1990, Reg. 90, s. 41.

#### EXAMINATION OF REGISTRANTS

42. Every notice to submit to an examination under section 28 of the Act shall be in Form 11. R.R.O. 1990, Reg. 90, s. 42.

#### AMENDMENTS TO REGISTRATION

43. (1) Subject to subsection (2), every notice to the Director under subsection 30 (1) or (2) of the Act shall be by way of a letter filed with the Director providing the information required by the applicable part of such subsections.

(2) Upon receipt and review of the letter referred to in subsection (1) the Director may require an application for amendment of registration prepared in accordance with Form 12.

(3) Subject to subsection (4), every notice to the Director under subsection 30 (3) of the Act shall be in the form of a letter filed with the Director providing the information required by the applicable part of such subsection.

(4) Upon receipt and review of the letter referred to in subsection (3) the Director may require an application for amendment of registration prepared in accordance with Form 13.

(5) Where the reason for submission of an application for amendment of registration in Form 13 is the transfer of the salesperson from the employ of one registered dealer to another registered dealer, the new employer shall complete and execute a certificate in Form 8 and such certificate shall form a part of the application for amendment of registration. R.R.O. 1990, Reg. 90, s. 43.

#### EXEMPTION FROM REGISTRATION REQUIREMENTS

44. (1) Registration as an adviser is not required to be obtained by,

(a) a producers' co-operative;

(b) a trade association;

(c) a dealer in or processor, broker or seller of cash commodities; or

(d) a farming or livestock management service organization,

that issues advice, analyses and reports exclusively to its members or customers, where the performance of the service as an adviser is solely incidental to its principal business.

(2) Registration as an adviser is not required to be obtained by a dealer acting as a commodity trading manager where,

- (a) a self-regulatory body recognized by the Commission under section 15 of the Act to whose discipline the dealer is subject has passed by-laws or regulations that,
    - (i) govern the activities of its members as commodity trading managers,
    - (ii) impose standards and conditions applicable to all members managing trading in contracts for customers through discretionary authority granted by the customers,
    - (iii) are substantially equivalent to the requirements and conditions of registration for commodity trading managers set out in this Regulation, and
    - (iv) together with any amendments thereto, have been approved by the Commission as the substantial equivalent of the requirements and conditions of registration for commodity trading managers set out in this Regulation;
  - (b) the self-regulatory body recognized by the Commission under section 15 of the Act to whose discipline the dealer is subject has,
    - (i) recognized certain activities of the dealer as being the equivalent of those of a commodity trading manager and has so advised the Commission, and
    - (ii) with respect to the dealer, provided the Commission with,
      - (A) the names of any partner or officer or employee designated and approved pursuant to the applicable by-laws or regulations, to make trading decisions on behalf of, or to offer advice to, customers, and
      - (B) any changes made from time to time in the designation and approval of any partner or officer or employee; and
  - (c) the designated and approved individuals referred to in clause (b), who are resident in Ontario, are registered to trade in contracts under section 22 of the Act.
- (3) Registration as an adviser is not required to be obtained by a dealer acting as a commodity trading manager where,
- (a) the procedure required to be submitted to and approved by the Director under subsection 27 (1) includes provisions applicable to trading in contracts for customers through discretionary authority granted by the customers that are substantially equivalent to the requirements and conditions to registration for commodity trading managers set out in this Regulation, and that, together with any amendments thereto, have been approved by the Director as the substantial equivalent of the requirements and conditions of registration for commodity trading managers set out in this Regulation;
  - (b) the dealer provides the Director with the names of any partner or officer or employee who makes trading decisions on behalf of, or offers advice to customers and any changes made from time to time in such names; and
  - (c) the individuals referred to in clause (b), who are resident in Ontario, are registered to trade in contracts under section 22 of the Act. R.R.O. 1990, Reg. 90, s. 44.

## PART IV TRADING GENERALLY

45. Every statement furnished under section 40 of the Act to a prospective customer by a registered dealer or registered adviser shall be in,

- (a) Form 14 where the prospective customer contemplates trades in commodity futures contracts; or
- (b) Form 15 where the prospective customer contemplates trades in commodity futures options. R.R.O. 1990, Reg. 90, s. 45.

## PART V ENFORCEMENT

### ENDORSEMENT OF WARRANTS

46. The endorsement of a warrant by a provincial judge or justice of Ontario provided for by section 58 of the Act shall be in accordance with Form 16. R.R.O. 1990, Reg. 90, s. 46.

### Schedule 1

#### FEES

1. In this Schedule,

“applicant’s total regulatory capital” means the aggregate of,

- (a) the applicant’s capital,
- (b) the applicant’s retained earnings or undivided profits,
- (c) the applicant’s reserves,
- (d) the applicant’s deferred income taxes,
- (e) the applicant’s subordinated loans,
- (f) the amount receivable on demand by the applicant under a standby subordinated loan agreement with a Canadian chartered bank, and
- (g) the non-current portion of the applicant’s capitalized leases;

“applicant’s total regulatory capital employed in Ontario” means,

- (a) with respect to an applicant for registration, the applicant’s total regulatory capital, and
- (b) with respect to an applicant for renewal of registration, the amount calculated using the formula,

$$1/2 \times A \times [B/C + D/E]$$

where,

“A” is the applicant’s total regulatory capital,

“B” is the salaries and wages (including bonuses, commissions, other forms of monetary compensation and the value of non-monetary compensation) paid by the applicant to employees in Ontario,

“C” is the total salaries and wages (including bonuses, commissions, other forms of monetary compensation and the value of non-monetary compensation) paid by the applicant to all employees, whether in or outside Canada,

"D" is the revenue earned by the applicant in Ontario, and

"E" is the total revenue earned by the applicant, whether in or outside Canada,

each of such amounts being those for the financial year covered by the applicant's most recent audited consolidated annual financial statements.

2. (1) The fee payable by an applicant for registration or renewal of registration as a dealer is the aggregate of,

(a) subject to subsection (2), the greater of,

(i) \$1,500, and

(ii) the aggregate of,

(A) 0.12 per cent of the first \$65,000,000 of the applicant's total regulatory capital employed in Ontario, and

(B) 0.06 per cent of the applicant's total regulatory capital employed in Ontario in excess of \$65,000,000;

(b) \$125 for each branch office and each sub-branch office of the applicant in Ontario;

(c) for each individual who is a partner or officer of the applicant, other than a partner or officer who is not resident in Ontario and is not registered to trade in Ontario,

(i) \$125, if the individual is registered or is applying to be registered under the *Securities Act* as a partner or officer of the applicant, or

(ii) \$250, otherwise; and

(d) for each individual who is a floor trader or salesperson of an applicant for renewal of registration,

(i) \$125, if the individual is registered or is applying to be registered under the *Securities Act* as a salesperson, partner or officer of the applicant, or

(ii) \$250, otherwise.

(2) If the applicant for registration or renewal of registration under the Act as a dealer is registered or is applying to be registered under the *Securities Act* as a dealer, the amount determined under clause 2 (1) (a) shall be deemed to be \$1,500.

3. (1) An application in Form 7 (or a letter in lieu thereof) by a floor trader employed by a registered dealer shall be accompanied by a fee of,

(a) \$125, if the individual is registered or is applying to be registered under the *Securities Act* as a salesperson, partner or officer of the registered dealer; or

(b) \$250, otherwise.

(2) An application in Form 7 (or a letter in lieu thereof) by a floor trader who is not employed by a registered dealer shall be accompanied by a fee of \$250.

4. (1) Subject to subsection (2), an application in Form 7 (or a letter in lieu thereof) for registration as a salesperson, partner or officer of a dealer shall be accompanied by a fee of,

(a) \$125, if the applicant is registered or is applying to be registered under the *Securities Act* as a salesperson, partner or officer of the dealer; or

(b) \$250, otherwise.

(2) No fee is payable under subsection (1) if the application in Form 7 (or letter in lieu thereof) is,

(a) filed as an exhibit to an application in Form 5; or

(b) made by a partner or officer who is not resident in Ontario and is not applying for registration to trade in Ontario.

5. The fee payable by an applicant for registration or renewal of registration as an adviser is the aggregate of,

(a) \$1,500;

(b) \$125 for each branch office and each sub-branch office of the applicant in Ontario; and

(c) for each individual who is a partner or officer of the applicant, other than a partner or officer who is not resident in Ontario and is not registered to advise in Ontario,

(i) \$125, if the individual is registered or is applying to be registered under the *Securities Act* as a partner or officer of the applicant, or

(ii) \$375, otherwise.

6. (1) Subject to subsection (2), an application in Form 7 (or a letter in lieu thereof) for registration as a partner or officer of an adviser shall be accompanied by a fee of,

(a) \$125, if the applicant is registered or is applying to be registered under the *Securities Act* as a partner or officer of the adviser; or

(b) \$375, otherwise.

(2) No fee is payable under subsection (1) if the application in Form 7 (or letter in lieu thereof) is,

(a) filed as an exhibit to an application in Form 5; or

(b) made by a partner or officer who is not resident in Ontario and is not applying for registration to advise in Ontario.

7. (1) An applicant for registration as a dealer or adviser shall pay the fee calculated under section 2 or 5, as applicable, when the application for registration or the letter in lieu thereof is filed.

(2) The calculation under section 2 or 5 of the fee payable when the application for registration or the letter in lieu thereof is filed shall be based on,

(a) the number of branch and sub-branch offices at the time the application or letter in lieu thereof is filed;

(b) the partners and officers at the time the application or letter in lieu thereof is filed; and

(c) the information contained in the audited consolidated financial statements or Joint Regulatory Financial Questionnaire and Report filed with the application.

(3) An applicant for registration as a dealer or adviser shall, prior to the granting of the registration, pay an additional fee equal to the amount which, when added to the fee paid when the application or letter in lieu

thereof was filed, equals the fee that would have been payable under section 2 or 5, as applicable, had the calculation been based on,

- (a) the number of branch and sub-branch offices on the date on which the registration is granted;
- (b) the partners and officers on the date on which the registration is granted; and
- (c) the information contained in the audited consolidated financial statements or Joint Regulatory Financial Questionnaire and Report filed most recently prior to the date on which the registration is granted.

(4) A refund shall be made to an applicant for registration as a dealer or adviser equal to the amount by which the fee paid when the application or letter in lieu thereof was filed exceeds the fee that would have been payable under section 2 or 5, as applicable, had the calculation been based on,

- (a) the number of branch and sub-branch offices on the date on which the registration is granted;
- (b) the partners and officers on the date on which the registration is granted; and
- (c) the information contained in the audited consolidated financial statements or Joint Regulatory Financial Questionnaire and Report filed most recently prior to the date on which the registration is granted.

8. (1) In this section,

“applicant’s anniversary date” means,

- (a) the date of the first anniversary of the granting of the applicant’s current registration or renewal of registration, or
- (b) if the applicant is the successor registrant of an amalgamation or merger of two or more registrants, the date of the first anniversary of the latest of the dates on which registration or renewal of registration was granted to each of the predecessor registrants;

“applicant’s current registration or renewal of registration” means the registration or renewal of registration held by the applicant at the time the applicant applied for the renewal of registration referred to in this section.

(2) An applicant for renewal of registration as a dealer or adviser shall pay the fee calculated under section 2 or 5, as applicable, within thirty days after the applicant’s anniversary date.

(3) The calculation under section 2 or 5 of the fee payable by an applicant for renewal of registration shall be based on,

- (a) the number of branch and sub-branch offices on the applicant’s anniversary date, as shown in the records of the Commission;
- (b) the floor traders, salespersons, partners and officers on the applicant’s anniversary date, as shown in the records of the Commission; and
- (c) the information contained in the audited consolidated financial statements or Joint Regulatory Financial Questionnaire and Report filed most recently prior to the applicant’s anniversary date.

(4) If the information contained in the records of a registrant is inconsistent with the information contained in the records of the Commission on which a fee payment is based under this section, the registrant shall

notify the Commission of the inconsistency at the time of payment of the fee and, if the records of the Commission are accordingly adjusted, the Commission shall, as applicable, make a credit toward or debit against the fee payable by the registrant with respect to the registrant’s next application for renewal of registration.

9. (1) If an applicant is refused registration or renewal of registration as a dealer and if all of the applicant’s rights of appeal have been exercised unsuccessfully or have expired, a refund shall be made equal to the aggregate of,

- (a) the amount paid under clause 2 (1) (b); and
- (b) the amount by which the amount paid under clause 2 (1) (a) exceeds \$1,500.

(2) If an applicant is refused registration or renewal of registration as an adviser and if all of the applicant’s rights of appeal have been exercised unsuccessfully or have expired, the amount paid under clause 5 (b) shall be refunded.

10. A notice to the Commission under subsection 4 (2) of the Act shall be accompanied by a fee of \$75.

11. (1) The fee which the Commission may, under subsection 14 (3) of the Act, charge the subject of an examination under section 14 of the Act is the amount determined under subsection (3).

(2) If the Commission appoints an accountant or other expert to make an examination under subsection 7 (8) of the Act, the subject of the examination by the accountant or other expert shall pay a fee equal to the amount determined under subsection (3).

(3) For the purpose of subsections (1) and (2), the amount of the fee is,

- (a) if the person making the examination is a Crown employee, civil servant or public servant, as defined in section 1 of the *Public Service Act*, \$1,000 for each day that the person is engaged in making the examination; or
- (b) in all other cases, the amount paid by the Commission to the person making the examination.

(4) The Commission may require that a portion of a fee referred to in this section be paid from time to time.

12. An application for an amendment to the terms and conditions of a registration shall be accompanied by a fee of \$500.

13. A notice under subsection 30 (1) or (2) of the Act shall be accompanied by a fee of \$125 for each change referred to in the notice.

14. A registrant shall pay a fee of \$125 upon each of the following changes:

- 1. A change in the registrant’s name.
- 2. A change in a category of the registrant’s registration.
- 3. A change in the registrant’s auditor.
- 4. A change in the registrant’s financial year end.

15. Upon an amalgamation or merger of two or more registrants, the successor registrant shall pay a fee of \$125 in respect of each change referred to in subsection 30 (1) or (2) of the Act and each change referred to in section 14 of this Schedule that occurs to each predecessor registrant as a result of the amalgamation or merger.

16. (1) Except as set out in subsection (2) or as otherwise provided in this Schedule, an application or request for a waiver or exercise of

discretion by or for the written consent or approval of the Commission or the Director shall be accompanied by a fee of \$500.

(2) No fee is payable under subsection (1) in respect of,

- (a) the review by the Commission of a constating document, by-law, rule, regulation, policy, direction, instruction, decision, order, ruling, practice or procedure of a self-regulatory body, a commodity futures exchange or a clearing house of a commodity futures exchange;
- (b) the review by the Commission of an agreement by one or more commodity futures exchanges, clearing houses of commodity futures exchanges, self-regulatory bodies or members thereof; or
- (c) a matter that does not require a waiver or exercise of discretion by or the written consent or approval of the Commission or the Director.

17. The fee payable for certification of a decision, document, record or thing referred to in clause 6 (1) (c) of the Act is the aggregate of,

- (a) \$75; and
- (b) 50 cents per page for photocopies required for the certificate.

18. The fee payable for certification of a statement referred to in section 62 of the Act is the aggregate of,

- (a) \$75; and

(b) 50 cents per page for photocopies of documents included in the statement that are required to be made available by the Commission for public inspection.

19. The fee payable for photocopies made by the Commission is 50 cents per page.

20. The fee payable for the first copy of a transcript prepared by or on behalf of the Commission is,

- (a) \$3.75 per page for a transcript prepared on an expedited basis; or
- (b) \$3.25 per page, otherwise.

21. (1) If a person or company requests exemption from payment of an amount exceeding \$5,000, the Commission may, subject to such conditions as it may impose, exempt the person or company from the requirement to pay all or part of a fee under subsection 11 (2).

(2) If a person or company requests exemption from payment of an amount equal to or less than \$5,000, the Director may, subject to such conditions as he or she may impose, exempt the person or company from the requirement to pay all or part of a fee section 10, subsection 11 (2) and sections 16, 17, 18, 19 and 20.

(3) A request to the Commission under subsection (1) shall be accompanied by a fee of \$500 and a request to the Director under subsection (2) shall be accompanied by a fee of \$100.

(4) The fee paid under subsection (3) shall be refunded if the exemption is granted. O. Reg. 248/92, s. 2.

### Form 1

#### Commodity Futures Act

#### SUMMONS TO A WITNESS BEFORE

RE: .....

TO: .....

You are hereby summoned and required to attend before .....

at a hearing/examination to be held at .....

in the ..... of ..... on ..... day the .....

day of ..... 19..... at the hour of ..... o'clock in the ..... noon (local time, and so from day to day until the hearing/examination is concluded or the Ontario Securities Commission otherwise orders, to give evidence on oath .....

and to bring with you and produce at such time and place .....

Dated this ..... day of ..... 19.....

ONTARIO SECURITIES COMMISSION

.....  
(Signature)

#### NOTE:

You are entitled to be paid the same personal allowances for your attendance at the hearing/examination as are paid for the attendance of a witness summoned to attend before the Ontario Court (General Division).

You are entitled to be represented by counsel when you attend the hearing/examination.

If you fail to attend and give evidence at the hearing/examination, or to produce the documents or things specified at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in the same manner as if for contempt of that court for disobedience to a subpoena.

## Form 2

## Commodity Futures Act

## AFFIDAVIT OF SERVICE

Province of Ontario

) IN THE MATTER OF the *Commodity Futures*  
) Act,

..... of .....

) AND

) IN THE MATTER OF .....

) .....

I .....

of the ..... of ..... in the .....

of ....., make oath and say:

1. THAT I did on the ..... day of ....., 19..... personally  
serve ..... at about .....  
with a true copy of the \* ..... herein hereunto  
annexed by delivering the same to and leaving the same with .....  
at the ..... of ..... in the .....  
of .....
2. THAT I did at the same time and place produce and pay the sum of ..... Dollars  
conduct money.
3. THAT to effect such service I necessarily travelled ..... miles.

SWORN before me at the ..... )

) of ..... in the ..... )

) of ..... this ..... )

) day of ....., 19..... )

(signature of deponent)

A Commissioner, etc.

\*Instruction: Indicate whether a notice or a summons to witness.

R.R.O. 1990, Reg. 90, Form 2.

## Form 3

*Commodity Futures Act*DEALER'S REPORT AND FINANCIAL INFORMATION  
GENERAL INSTRUCTIONS

1. All statements and schedules must be filed. If a schedule is not applicable a "nil" return must be filed.
2. Amounts may be rounded off to the nearest dollar on all statements and schedules.
3. All statements must be prepared on a trade date basis.
4. Additional schedules should be attached showing details of any significant amounts that have not been clearly described in the following statements and schedules.
5. Reference should be made to the definition of words and terms in the Act and the Regulations.

## NOTES TO FINANCIAL STATEMENTS

6. Notes which may be necessary for fair presentation of financial statements should be attached to Statement A.

## ONTARIO SECURITIES COMMISSION

.....  
(Name of Registrant)

## REPORT AND FINANCIAL INFORMATION

AT  
.....

## TABLE OF CONTENTS

## PART I

Page  
No.

Report of Auditor (for financial year end only) .....

## Statement

- A. Statement of assets and liabilities and capital .....
- B. Statement of net free capital .....
- C. Statement of adjusted liabilities .....
- D. Statement of minimum free capital .....
- E. Statement of segregation requirements and funds on deposit in segregation .....

## PART II

Report of Auditor (for financial year end only) .....

Certificate of Partners or Directors .....

## Schedule

1. Analysis of customers' accounts .....
2. Secured loans receivable .....
3. Securities owned and securities sold short at market value/Cash commodities, other than securities owned,  
at market value .....
4. Analysis of partners'/shareholders' accounts, other than trading .....
5. Analysis of income taxes .....
6. Open contracts, firm trading account .....
7. Loans and bank overdrafts .....
8. Changes in capital and retained earnings .....
9. Changes in reserves and subordinated loans .....
10. Contingent liabilities and commitments .....
11. Summary statement of income .....

12. Statement of changes in excess net free capital .....

13. Open contracts .....

(Name of Registrant)

## AUDITORS' REPORT

To: The Ontario Securities Commission

We have examined the following Financial Statements of .....  
(Firm Name)as at .....  
(Date)

Statement A — Statement of Assets and Liabilities and Capital

Statement B — Statement of Net Free Capital

Statement C — Statement of Adjusted Liabilities

Statement D — Statement of Minimum Free Capital

Statement E — Statement of Segregation Requirements and Funds on Deposit in Segregation

Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests and other procedures as we considered necessary in the circumstances, including the audit procedures prescribed by the Ontario Securities Commission.

In our opinion,

(i) the Statement of Assets and Liabilities and Capital presents fairly the financial position of the firm as at .....  
(Date)in the form required under the Regulations to the *Commodity Futures Act*, in accordance with the basis of accounting disclosed in Note 1 to the Statement applied on a basis consistent with that of the preceding year; and(ii) the Statements of Net Free Capital, Adjusted Liabilities, Minimum Free Capital, and Segregation Requirements and Funds on Deposit in Segregation as at .....  
(Date)are presented in accordance with applicable instructions in the Regulations under the *Commodity Futures Act*.

(Signature)

(Date)

NOTE: A measure of uniformity in the form of the auditors' report is desirable in order to facilitate identification of circumstances where the underlying conditions are different. Therefore, when auditors are able to express an unqualified opinion their report should take the above form.

Any limitations in the scope of the audit must be discussed in advance with the Ontario Securities Commission.

STATEMENT A

(Page 1 of 2)

(Name of Registrant)

## STATEMENT OF ASSETS AND LIABILITIES AND CAPITAL ASSETS

(As at ..... )

1. Cash on hand and in bank—general funds	\$.....
2. Dealer's residual financial interest in, or dealer's funds in excess of margin deficiencies advanced to, customers' accounts (Statement E)	.....
3. Clearing house margin deposits—nonsegregated	.....
4. Receivable from other dealers—nonsegregated	.....
5. Receivable from customers—segregated accounts	.....
6. Other receivables	.....
7. Secured loans receivable	.....
8. Inventories	.....

(a) Cash commodities, other than securities, hedged	.....
(b) Cash commodities, other than securities, unhedged	.....
(c) Securities owned—at market	.....
9. Accrued interest on securities owned	.....
10. Recoverable and overpaid income taxes	.....
11. Cash surrender value of life insurance where the registrant is the beneficiary	.....
12. Commissions receivable—received within 25 days	.....
13. Other active assets—received within 25 days	.....
14. Partners/shareholders' accounts other than trading	.....
15. ....	.....
16. ....	.....
20. TOTAL ACTIVE ASSETS	\$.....
21. Fixed assets	.....
22. Exchange seats	.....
23. Other non-active assets (give details)	.....
24. ....	.....
30. TOTAL NON-ACTIVE ASSETS	\$.....
TOTAL ASSETS	\$.....

STATEMENT A

(Page 2 of 2)

.....  
(Name of Registrant)

## LIABILITIES AND CAPITAL

(As at ..... )

51. Loan and bank overdrafts	\$.....
52. Amount by which funds required to be segregated exceed funds in segregation (Statement E)	.....
53. Partners/shareholders' accounts other than trading	.....
54. Dividends and interest payable	.....
55. Provision for income taxes	.....
56. Deferred income taxes (active assets)	.....
57. Accounts payable and accrued expenses	.....
58. Payable to customers—non-segregated	.....
59. Payable to other dealers—non-segregated	.....
60. Securities sold short at market	.....
61. Other liabilities (give details)	.....
62. ....	.....
63. ....	.....
70. TOTAL LIABILITIES	\$.....
71. Deferred income taxes (non-active assets)	.....
72. Subordinated loans (shareholder/partners)	.....
73. Subordinated loans—(Other)	.....
74. Capital	.....

75. Retained earnings or undivided profits	.....	
76. Reserves	.....	
77. ....	.....	.....
80. TOTAL LIABILITIES AND CAPITAL		<u>\$.....</u>

## NOTES AND INSTRUCTIONS

Line 10 Include only overpayment of prior year's income taxes or current year's instalments. Taxes recoverable due to current year losses may be included to the extent that they can be carried back and applied against taxes previously paid.

Lines 12 Amounts not received within 25 days after the date of this report must be shown on Line 23.  
and 13

Line 23 Include such items as:

Prepaid expenses  
Deferred charges  
Deferred income tax debits  
Investments in and advances to subsidiaries and affiliates  
Other non-active assets.

STATEMENT B

.....  
(Name of Registrant)

STATEMENT OF NET FREE CAPITAL

(As at ..... )

## REFERENCE

1. A - 20	Total active assets	\$.....
	Deduct—	
2. A - 70	Total liabilities	.....
3.	Add:	
	Loan value of any securities advanced under subordinated loans in the form prescribed by the Commission that are not included in the accounts (attach a schedule giving details)	.....
	Non-current liabilities fully secured by mortgages on real estate owned by the registrant	.....
4.	LIQUID CAPITAL	\$.....
	Deduct amount required to provide full margin for:—	
5.	Cash commodities including securities, other than the currencies of Canada and the United States, owned by the registrant	\$.....
6.	Securities owned by the registrant and securities sold short by the registrant	.....
7.	Firm trading accounts	.....
	Deduct amounts sufficient to provide for any margin deficiencies on:—	
8.	Secured loans receivable	.....
9.	Customers' accounts	.....
10.	Partners' or shareholders' accounts, other than trading	.....
11.	Secured loans payable by the registrant if the collateral is held by other than the registrant or a financial institution	.....

12. Other liquid capital items .....

13. NET FREE CAPITAL .....  
\$.....

## NOTES AND INSTRUCTIONS

Line 3 Do not include amounts which fall due within one year in non-current liabilities.

Line 12 This item should include all margin requirements not mentioned above e.g., out of balance security positions, margin on contingent liabilities.

## STATEMENT C

.....  
(Name of Registrant)

## STATEMENT OF ADJUSTED LIABILITIES

(As at ..... )

## REFERENCE

1. A - 70	Total liabilities	\$.....	
		.....	\$.....
2.	Deduct—		
3. A - 1	Cash	.....	
4.	Debit balances with financial institutions not included in 3	.....	
5. A - 11	Cash surrender value of life insurance where the registrant is the beneficiary	.....	
6.	Market value of securities owned by the registrant having a margin rate of 5% or less	.....	
7.	Accrued interest relating to securities in line 6 above	.....	
8.	The market value of securities which have a margin rate of 5% or less, included in non-segregated accounts of customers, partners, shareholders, or dealers or held as collateral for secured loans receivable, not exceeding the debit balance of the account or the secured loan receivable	.....	\$.....
9.	ADJUSTED LIABILITIES		\$.....

## NOTES AND INSTRUCTIONS

Line 6 Exclude securities which have been deposited with other dealers as margin or securities deposited in segregated accounts to cover margin deficiencies or to prevent the accounts from becoming undermargined.

Line 8 If this deduction is made, care should be taken not to duplicate the deductions made under line 4. A separate Schedule, "C", should be attached showing separately for each account, the market value of the securities and the debit balances.

## STATEMENT D

.....  
(Name of Registrant)

## STATEMENT OF MINIMUM FREE CAPITAL

(As at ..... )

## REFERENCE

1. C - 9	Adjusted liabilities	\$.....
2.	Capital requirements on adjusted liabilities	
	10% on first \$2,500,000 or part thereof	.....
	8% on next \$2,500,000 or part thereof	.....

- 7% on next \$2,500,000 or part thereof .....
- 6% on next \$2,500,000 or part thereof .....
- 5% on balance over \$10,000,000 .....
3. The greater of,
- a. up to the first \$20,000,000 in market value of commodity futures contracts the sum of,
- A. 2 per cent of the market value for contracts, other than for securities, representing a long position or the total number of commodity futures contracts, other than for securities, representing a short position in each commodity, whichever is the greater, carried for all customers' and firm accounts excluding exempted contracts and contracts entered into to effect a dealer's covering transaction, and
- B. the amount arrived at by the application of the securities futures capital charge (Subsection 14 (7) ),
- to a maximum of \$100,000, or
- b. the sum of,
- A. ½ of 1 per cent of the market value of the total number of commodity futures contracts, other than for securities, representing a long position or the total number of commodity futures contracts, other than for securities, representing a short position in each commodity, whichever is the greater, carried for all customers' and firm accounts excluding exempted contracts and contracts entered into to effect a dealer's covering transaction, and
- B. the amount arrived at by the application of the securities futures capital charge (Subsection 14 (7) ). .....
4. Customer concentration factor  
(Subclause 14 (1) (b) (iii) ) .....
5. Commodity concentration factor  
(Subclause 14 (1) (b) (iv) ) .....
6. Total on adjusted liabilities and contracts  
(minimum \$75,000) \$.....
7. Capital requirement on insurance-deductible amounts:
- Amounts deductible (greatest under any clause) .....
8. Minimum free capital required \$.....
9. B - 13 Net Free Capital .....
10. Excess (deficiency) Net Free Capital \$.....

## NOTES AND INSTRUCTIONS

Line 10 All deficiencies must be reported immediately to the Ontario Securities Commission. An explanation must be given on this Schedule for any capital deficiency and the action taken to correct it.

STATEMENT E

.....  
(Name of Registrant)

STATEMENT OF SEGREGATION REQUIREMENTS  
AND FUNDS ON DEPOSIT IN SEGREGATION

(As at ..... )

## REQUIREMENT

## 1. Net ledger balances of customers

- (a) Cash ..... \$.....
- (b) Securities—at market ..... \$.....

2. Net unrealized profit-loss in open contracts held for customers .....	.....
3. Net equity of customers (1 + 2) .....	.....
4. Add—accounts liquidating to a deficit and accounts with debit balances with no open contracts (Schedule 1) .....	.....
5. Amount required to be segregated (3 + 4) .....	\$.....

## FUNDS ON DEPOSIT IN SEGREGATION

6. Deposited in segregated accounts with financial institutions:	
(a) Cash .....	\$.....
(b) Securities representing investment of customers' funds—at market .....	.....
(c) Securities deposited by customers in lieu of cash margin—at market .....	.....
7. Margin on deposit with clearing houses	
(a) Cash .....	.....
(b) Securities deposited by customers in lieu of cash margin—at market .....	.....
8. Due to/from clearing houses .....	.....
9. Equities with other dealers who carry customers' trades on an omnibus basis .....	.....
10. Segregated funds on hand:	
(a) Cash .....	.....
(b) Securities representing investment of customers' funds—at market .....	.....
(c) Securities deposited by customers in lieu of cash margin—at market .....	.....
11. TOTAL AMOUNT IN SEGREGATION .....	.....
12. EXCESS DEFICIENCY OF FUNDS IN SEGREGATION (Line 11 minus Line 5) .....	\$..... A2/A52

## NOTES AND INSTRUCTIONS

Line 12 The registrant shall immediately report to the Commission any deficiency of funds in segregation.

.....  
(Name of Registrant)

## AUDITORS' REPORT

To the Ontario Securities Commission

Pursuant to our examination of Statements A to E, we have examined the Schedules 11 and 12 to the Report and Financial Information of

.....  
(Firm Name)

for the ..... months ended .....  
(Date)

In our opinion Schedule 11, the Summary Statement of Income, presents fairly the results of its operations for the year then ended in the form required by the Regulations under the *Commodity Futures Act*, in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year; and Schedule 12, the Statement of Changes in Excess Net Free Capital for the year then ended, is presented in accordance with the applicable requirements of the Regulations under the *Commodity Futures Act*.

The additional information set out in Schedules 1 to 10 and Schedule 13 have been subjected to the tests and other auditing procedures applied in the examination of the Financial Statements A to E and Schedules 11 and 12, and in our opinion, are fairly stated in all respects material in relation to these financial statements taken as a whole.

.....  
(Signature)

.....  
(Date)

NOTE: A measure of uniformity in the form of the auditor's report is desirable in order to facilitate identification of circumstances where the

underlying conditions are different. Therefore, when auditors are able to express an unqualified opinion their report should take the above form.

Any limitations in the scope of the audit must be discussed in advance with the Ontario Securities Commission.

### CERTIFICATE OF PARTNERS OR DIRECTORS

.....  
(Firm Name)

I/We have examined the attached Statements A to E and Schedules 1 to 13 and certify that, to the best of my/our knowledge, they present fairly the financial position of the firm at .....

..... and the results of operations for the period then ended, and are in agreement with the books of the firm.

I/We certify that the following information is true and correct to the best of my/our knowledge for the period from the last audit to the date of the attached Statements which have been prepared in accordance with the requirements of the Regulations under the *Commodity Futures Act*.

### ANSWERS

(1) Do the attached statements fully disclose all assets and liabilities including the following? (If not, give full particulars):

- (a) Outstanding options.
- (b) Actions commenced against the firm or partners or corporation or any other litigation pending?
- (c) Income tax arrears of partners or corporation?
- (d) Other contingent liabilities, guarantees, returned drafts, accommodation endorsements or commitments affecting the financial position of the firm?

(2) Are all Exchange seats which are operated by the firm owned outright and clear of encumbrance by the firm? If not give details.

.....  
(Date)

To be signed by:—

- (i) chief executive officer/partner
- (ii) chief financial officer
- (iii) the chief accountant
- (iv) at least two directors/partners if not included in (i) to (iii) above.

Any partner/director and any officer or employee with senior management responsibility for areas where unrecorded liabilities may occur must sign a copy of this report to indicate that he or she has examined it and is satisfied that, to the best of his or her knowledge, it is correct.

### SCHEDULE 1

.....  
(Name of Registrant)

### ANALYSIS OF CUSTOMERS' ACCOUNTS

	Debit	Amount Required to Provide Full Margin
1. Accounts with margin deficiency (subsection 7 (1) )	.....	.....
2. Accounts that contain debit balances with no open trades	.....	.....
TOTAL	.....	.....

## 3. Less allowance for bad debts or accounts provided for but included above

.....  
 .....  
A-5

.....  
 .....  
B-9

## NOTES AND INSTRUCTIONS

1. Customers with more than one account may use an account with excess funds to secure an account which liquidates to a deficit or to secure an account with a margin deficiency if each account and balance involved is clearly identified on a separate Schedule, "1A". Such an arrangement must be evidenced by a written agreement.
2. LINE 1. The total deficit in customer accounts that liquidate to a deficit should be entered in the left-hand column under the heading "Debit". The total margin deficiency in customer accounts should be entered in the right-hand column. For example, customer A's account liquidates to a deficit of \$1,000 and his commodity position requires \$2,000 margin; customer B's equity amounts to \$1,500 and his commodity position requires \$2,000 margin. The entries in line 1 should be "Debit"—\$1,000 and "Amount Required to provide Full Margin"—\$3,500 (\$3,000 as to customer A and \$500 as to customer B).

## SCHEDULE 2

.....  
 (Name of Registrant)

## SECURED LOANS RECEIVABLE

Name of Borrower and Term	Amount of Loan Including Accrued Interest	Market Value of Collateral	Loan Value of Collateral	Required to Margin
(Note 1)				

.....  
 .....  
B-8

## NOTES:

1. A borrower may be identified in column 1 by means of a code or symbols provided that the code or symbols and their meaning and any change or addition thereto are submitted.
2. Market values shall include accrued interest.
3. The total to column 2 should be entered at line 7 on Statement A.
4. Receivables are to be fully margined at all times.

## SCHEDULE 3

.....  
 (Name of Registrant)

## A. SECURITIES OWNED AND SECURITIES SOLD SHORT AT MARKET VALUE

	Balance		Margin Required (Subsection 7 (1) )
	Debit (Long)	Credit (Short)	
1. Securities having a margin rate of 5% or less	.....	.....	.....
Less—dealer's securities deposited in segregation and with other dealers (segregated accounts)	.....		
2. Carry debit to Statement C, line 6	.....		
3. Other securities	.....	.....	.....
Less—securities on deposit with other dealers (Segregated accounts)	.....	.....	.....
	<u>A-8 (c)</u>	<u>A-60</u>	<u>B-6</u>

**B. CASH COMMODITIES OTHER THAN SECURITIES OWNED AT MARKET VALUE****11. Cash commodities, other than securities:**

(a) Hedged	\$.....	\$.....
(b) Unhedged	.....	.....
12. ....	.....	.....
13. ....	.....	.....
20. TOTAL	\$ A-8 (a) or 8 (b)	\$ B-5

**NOTES AND INSTRUCTIONS**

All securities are to be valued at market but no adjustment need be made for securities with no collateral value, carried on the books at less than market.

Attach a schedule setting out the name and description of each security, market price, market value, margin rate and margin. In the case of debt instruments where yield rate is used to determine market price the yield rate must be disclosed. Information may be given in summary form as to securities issued or guaranteed by the Government of Canada or any province of Canada. The summary should include the total market values and total margin requirements for all Government of Canada issues for which the same margin rate is prescribed, and like totals—also by margin rate categories—for provincial issues. It is not necessary to distinguish between provinces. Insignificant holdings of securities that require 100 per cent margin may be shown in total.

**SCHEDULE 4**

.....  
(Name of Registrant)

**ANALYSIS OF PARTNERS'/SHAREHOLDERS' ACCOUNTS, OTHER THAN TRADING**

	<u>Balances</u>		<u>Amount Required to Fully Margin</u>
1. Unsecured debits	.....	.....	.....
2. Free credits	.....	.....	Nil
3. ....	.....	.....	.....
TOTAL	\$ A-14	\$ A-53	\$ B-10

**NOTES AND INSTRUCTIONS**

Attach a schedule showing for each partner/shareholder account the debit or credit money balance.

**SCHEDULE 5**

(Page 1 of 2)

.....  
(Name of Registrant)

**ANALYSIS OF INCOME TAXES**

(To be completed at financial year end only)

**A. INCOME TAX PAYABLE (Recoverable)**

1. Balance payable (recoverable) at last year end	\$.....
2. Payments made or (received) relating to above balance	\$.....
3. Adjustments, including reassessments relating to prior period (give details if significant)	.....
4. Balance, if any, relating to prior years	.....

5. Provision for income taxes currently payable, including taxes on extra-ordinary items OR Recovery of income taxes due to losses in the current period	..... .....	.....
6. SUB-TOTAL	.....	.....
7. Payments on account of the current period	.....	.....
8. SUB-TOTAL	.....	.....
9. Other adjustments (give details)	.....	.....
10. Current balance payable (recoverable)	.....	\$.....
	A-10—if recoverable A-55—if payable	

## B. DEFERRED INCOME TAXES

	Debit	CREDIT	
		Re Active Assets and Liabilities	Re Non-Active Assets
1. Balance at last year end	\$.....	\$.....	\$.....
2. Changes during the period (give details if significant)	.....	.....	.....
3. Present balance	\$..... A-23	\$..... A-56	\$..... A-71

SCHEDULE 5

(Page 2 of 2)

.....  
(Name of Registrant)

## C. RECONCILIATION

1. Income Taxes provided (recovered) (Line A5)	\$.....
2. Adjustments relating to prior periods (Line A3)	.....
3. Other adjustments (Line A9)	.....
4. Net change in deferred income taxes (Line B2)	.....
5. Total income taxes	\$.....
6. Total income taxes per Schedule 11 (Line 6)	\$.....
7. Income taxes included in Schedule 11 (Line 8)	.....
8. Income taxes charged or credited directly to retained earnings (Schedule 8, items 11 or 12)	.....
9. Total income taxes (agrees with Line C5)	\$.....

## NOTES AND INSTRUCTIONS

- On this Schedule balances recoverable i.e., debits, should be shown in brackets.
- Line A-10—If the balance includes amounts relating to other than the current year then analysis should be provided by year.

SCHEDULE 6

.....  
(Name of Registrant)

## OPEN CONTRACTS, FIRM TRADING ACCOUNT

Market	Commodity	No. of Contracts		Full Margin Required (Subsection 7 (1) )
		Long	Short	

B-7

SCHEDULE 7

(Name of Registrant)

## LOANS AND BANK OVERDRAFTS

		Margin Required
1. Bank Overdrafts	\$.....	Nil
2. Loans—Secured (Give details)	.....	.....
3. Loans—Unsecured (Give details)	.....	Nil
4. ....	.....	.....
TOTAL	A-51	B-11

## NOTE:

- Line 2. Detail given must include the name of lender, amount of the loan, and the description, quantity, market price and total market value of each security held by the lender as collateral. In addition, the margin rate and total margin requirement must be provided. The loans must be margined in full at all times. Any margin deficiency must be carried to statement B, line 11. The margin requirement for such loans is the market value of the collateral less the amount of the loan, less any margin already provided on the collateral (e.g. in inventory).

SCHEDULE 8

(Name of Registrant)

## CHANGES IN CAPITAL AND RETAINED EARNINGS

## A. CAPITAL

1. Balance at last year end	\$.....
2. Increases during period—give details	
(a)	.....
(b)	.....
(c)	.....
3.	.....
4.	.....
5. Decreases during period—give details	
(a)	.....
(b)	.....
(c)	.....

6.	.....	
7.		\$ A-74
8. Analysis of present capital		
(a)	.....	
(b)	.....	
(c)	.....	
9. To agree with line 7 above		\$ .....
<b>B. RETAINED EARNINGS (CORPORATIONS) OR UNDIVIDED PROFITS (PARTNERSHIPS)</b>		
10. Balance at last year end	.....	
11. Increases during period—give details		
(a) net income for the period (Schedule 11, line 11)	.....	
(b)	.....	
(c)	.....	
12. Decreases during period—give details		
(a) net loss for the period (Schedule 11, line 11)	.....	
(b) dividends paid or partners drawings	.....	
(c)	.....	
(d)	.....	
13. Present retained earnings or undivided profits		\$ A-75

## NOTES AND INSTRUCTIONS

Line 8 —Indicate the class of shares and give further details on their attributes. Indicate the nature of partnership interest, i.e., whether general or limited.

Lines 10 and 12—Direct charges or credits to retained earnings are to be restricted to capital transactions (e.g. dividends, premium on share redemptions, and prior period adjustments). All income items of an extraordinary or unusual nature (e.g. profits or losses on sale of fixed assets or commodity futures exchange seats), are to be included in Schedule 11 in arriving at net income or loss for the period. The latter amount is to be transferred in total to retained earnings (line 11 (a) or 12 (a) ).

The adjustment of inventory to market value must also be included in Schedule 11.

SCHEDULE 9

.....  
(Name of Registrant)

## CHANGES IN RESERVES AND SUBORDINATED LOANS

## A. RESERVES

- |   |                 |
|---|-----------------|
| 1. Balance at beginning of period                           | \$.....         |
| 2. Changes during the period (describe on an attached note) | .....           |
| 3. Balance at current date                                  | \$.....<br>A-76 |

## B. SUBORDINATED LOANS

	Shareholders/ Partners and Employees	Others
4. Balance at last year-end	\$.....	\$.....
5. Increases during period—give name of lenders		
(a) .....	.....	.....
(b) .....	.....	.....
(c) .....	.....	.....
(d) .....	.....	.....
(e) .....	.....	.....
6. ....	.....	.....
7. ....	.....	.....
8. Decreases during period—give name of lender		
(a) .....	.....	.....
(b) .....	.....	.....
(c) .....	.....	.....
(d) .....	.....	.....
(e) .....	.....	.....
(f) .....	.....	.....
9. ....	.....	.....
10. Present subordinated loans	\$..... A-72	\$..... A-73

## NOTES:

## Reserves

The nature of reserves should be described and should only include appropriations of retained earnings. Allowances for bad debts must not be shown here.

## Subordinated Loans

At the annual audit date only, attach a schedule showing the amount of each loan outstanding and the name of the lender. Subordinated debentures issued under a trust debenture should be disclosed in total only.

SCHEDULE 10

.....  
(Name of Registrant)

## CONTINGENT LIABILITIES AND COMMITMENTS

## DESCRIPTION

## AMOUNT

## NOTES AND INSTRUCTIONS

1. Include only items not recorded on Statement A.
2. Insignificant contingent liabilities or commitments need not be described unless in aggregate they are significant in amount. In this case the aggregate amount should be shown as "miscellaneous".
3. In the event that a dollar amount cannot be determined, describe the item in detail giving reasons for the inability to assign a dollar value.
4. Examples of contingent liabilities or commitments include:
  - Unfunded pension liabilities
  - Leases
  - Guarantees or endorsement
  - Discounted notes
  - Legal actions pending
  - Pending income tax claims assessments
  - Returned drafts
5. Contingent liabilities and commitments must be included up to the date of filing this report.

## SCHEDULE 11

(Name of Registrant)

## SUMMARY STATEMENT OF INCOME FOR THE MONTHS ENDED

(With comparative figures for the ..... ended .....)

	Current Period	Comparable Previous Period (if available)
1. REVENUE—		
(i) Commission	\$.....	\$.....
(ii) Interest	.....	.....
(iii) Firm Trading Accounts:		
(a) Realized gain (loss)	.....	.....
(b) Unrealized gain (loss)	.....	.....
(iv) Other income (give details)	.....	.....
2. Total Revenue	<u>\$.....</u>	<u>\$.....</u>
3. EXPENSES—		
(i) Commission	.....	.....
(ii) Employee Compensation	.....	.....
(iii) Occupancy and equipment rental	.....	.....
(iv) Interest	.....	.....
(v) Communications	.....	.....

(vi) Bad debt expense	.....	.....
(vii) Other (operating)	.....	.....
4. Total Expenses	\$.....	\$.....
5. Income (Loss) before income taxes (Line 2, minus Line 4)	.....	.....
6. Income taxes (see note)	.....	.....
7. Income (Loss) before extraordinary items	.....	.....
8. Extraordinary items (net of income tax) (see note)	.....	.....
11. Net income (loss) for period	\$.....	\$.....
	S8—Line	
	11 or 12	

## NOTES AND INSTRUCTIONS

The period covered in this Schedule should be from the previous year-end. The comparative figures should be for the comparable period in the previous year where these are available.

A comparative statement of income prepared in accordance with generally accepted accounting principles and containing at least the information shown in the Schedule may be substituted. This statement should be affixed to the Schedule.

It is recognized that the components of the revenue and expense classification on this Schedule may vary between firms. However, it is important that each firm be consistent between periods except where it is approved by the Ontario Securities Commission. Fair presentation may require the separate disclosure of additional and/or unusual items by way of a note to this Schedule.

Line 6 All income taxes including notional income tax at 33½ per cent on partnerships profits. Where the total income taxes on line 6 are materially different from the reported profit on line 5 multiplied by the current year's tax rate, an explanation of the difference should be provided.

Line 8 Extraordinary items should include only gains, losses and provisions for losses which, by their nature, are not typical of the normal business activities of the firm, and are not expected to occur regularly over a period of years. Examples are profits or losses on the sale of fixed assets, commodity futures seats or other non-active assets, profits or losses resulting from closing operations, etc. A list of items should be provided.

## SCHEDULE 12

.....  
(Name of Registrant)

## STATEMENT OF CHANGES IN EXCESS NET FREE CAPITAL

FOR THE ENDED

## SUMMARY OF CHANGES

1. Excess (deficiency) of net free capital at beginning of period	.....	.....
ADD		
2. Increase in liquid capital	.....	.....
3. Decrease in margin required	.....	.....
4. Decrease in minimum free capital required	.....	.....
DEDUCT		
5. Decrease in liquid capital	.....	.....
6. Increase in margin required	.....	.....
7. Increase in minimum free capital required	.....	.....
8. Excess (deficiency) of net free capital at end of period		\$.....

D-10

### SCHEDULE 13

(Name of Registrant)

## OPEN CONTRACTS (1)

(A) CUSTOMERS'

(B) FIRM, PARTNERS', SHAREHOLDERS', DIRECTORS' AND EMPLOYEES':

(Date)

Market	Commodity	Number of Contracts		Less Exempted Contracts (2) and Dealer's Covering Contracts (3)		Adjusted Number of Contracts		Settlement Price	Market Value of Total Long and Total Short for Each Commodity	
		Long	Short	Long	Short	Long	Short		Long	Short
TOTAL MARKET VALUE									\$	\$

### INSTRUCTIONS

1. A separate schedule must be prepared for each of category A and B. Cross out A or B whichever not applicable.
2. For definition of exempted contracts see subsection 14 (7).
3. Dealer's covering contracts are contracts entered into to effect a dealer's covering transaction. For a definition of dealer's covering transaction, see subsection 7 (1).

R.R.O. 1990, Reg. 90, Form 3.

## Form 4

Commodity Futures Act

## LOAN AGREEMENT

To: .....  
(Name of Firm)

The undersigned customer agrees that any securities or property that the customer pledges with you shall be subject to a lien for the discharge of the customer's obligation to you to the extent only of the actual amount advanced by you and may be pledged, repledged, hypothecated or rehypothecated provided no more of such securities or property than is fair and reasonable in view of the customer's indebtedness to you is so pledged, repledged, hypothecated or rehypothecated.

DATED: .....

(Signature of Customer)

WITNESSED: .....

R.R.O. 1990, Reg. 90, Form 4.

## Form 5

## Commodity Futures Act

NOTE: Should any space be insufficient for your answers, a statement may be attached and marked as an exhibit cross-referencing each statement to the item to which it pertains provided it is initialed by the applicant and the Commissioner taking the affidavit.

APPLICATION FOR REGISTRATION AS FUTURES COMMISSION MERCHANT,  
INTRODUCING BROKER OR ADVISER

Application is made for registration under the *Commodity Futures Act*, as .....

in the category of ..... (See categories  
set out at section 8 of the regulations under the *Commodity Futures Act*.)

The following statements of fact are made in respect thereof:

1. (a) Name of Applicant .....
- (b) Head Office Business Address (including postal code) .....
- Telephone No: .....
- (c) Address for service in Ontario .....
- (d) Name of non-resident carrying broker or registered futures commission merchant that trades in contracts for customers (to be answered by introducing brokers) .....

2. The applicant maintains accounts at the following bank(s):  
(state bank and branches through which business is transacted)

3. Is applicant applying for registration of any branch offices? .....
- If so, state addresses (including postal code) .....

Instructions: Answer "Yes" or "No" to the following questions. If "Yes" give particulars.

4. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant,
  - (a) been registered in any capacity under the *Commodity Futures Act* of Ontario? .....
  - (b) applied for registration in any capacity, under the *Commodity Futures Act* of Ontario? .....
5. Is the applicant, or to the best of the applicant's information and belief is any affiliate of the applicant, now, or has any such person or company been,
  - (a) registered or licensed in any capacity in any other province, state or country which required registration or licensing to trade in commodity futures contracts or commodity futures options? .....
  - (b) registered or licensed in any other capacity in Ontario or any other province, state or country under any legislation which

- requires registration or licensing to deal with the public in any capacity? (e.g. as a securities dealer, insurance agent, real estate agent, used car dealer, mortgage broker, etc.)
- .....
- .....
- (c) refused registration or a licence mentioned in 5 (a) or (b) above or has any registration or licence been suspended or cancelled in any category mentioned in 5 (a) or (b) above?
- .....
- .....
6. Is the applicant, or to the best of the applicant's information and belief is any affiliate of the applicant, now, or has any such person or company been,
- (a) a member of any commodity futures exchange, clearing house of a commodity futures exchange, association of commodity futures dealers or similar organization in any province, state or country?
- .....
- (b) refused membership in any commodity futures exchange, clearing house of a commodity futures exchange, association of commodity futures dealers or similar organization, in any province, state or country?
- .....
- (c) suspended as a member of any commodity futures exchange, clearing house of a commodity futures exchange, association of commodity futures dealers or similar organization, in any province, state or country?
- .....
7. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant, operated under, or carried on business under, any name other than the name shown in this application?
- .....
- .....
8. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant, ever been,
- (a) convicted or presently have outstanding a charge or indictment under the law of any province, state or country, except minor traffic violations?
- .....
- Instruction: Question 8 (a) refers to all laws, e.g. Criminal, Immigration, Customs, Liquor, etc., of any province, state or country in any part of the world.
- (b) the defendant or respondent in any proceeding in any civil court in any jurisdiction in any part of the world wherein fraud was alleged?
- .....
- .....
- (c) at any time declared bankrupt or made a voluntary assignment in bankruptcy? (If "Yes", give particulars and also attach a certified copy of discharge)
- .....
- .....
- (d) refused a fidelity bond? .....
- .....
9. Attach and mark as an exhibit properly identified a statement setting out the name in full of, and position held by, the applicant or each partner, officer or director of the applicant, and provide for each such person a completed Form 7, Application for Registration/Information Statement, attached and marked as exhibits to this application, unless such information has previously been filed with the Commission.
10. A—CAPITALIZATION OF A COMPANY:

Complete below or attach marked as an exhibit to the application a statement containing the information called for below, to provide information with respect to the financial structure and control of the applicant company:

(a) The authorized and issued capital of the company, stating:

<i>Preferred Shares</i> (State number of shares and dollar value)	<i>Common Shares</i> (State number of Shares and dollar value)
<u>Shares</u>	<u>Shares</u>
\$	\$

- (1) authorized capital
- (2) issued
- (3) total dollar value of other securities:
  - (i) Bonds
  - (ii) Debentures
  - (iii) Notes
  - (iv) Any other loans, state source and maturity dates

\$	\$
TOTAL.	\$

- (b) The names, addresses and usual place of residence of registered, and direct, and indirect, beneficial owners of each class of security or obligation issued, and, if a trust is the beneficial owner, the names, addresses and usual place of residence of each person or company having a beneficial interest in the trust, and the nature and extent of the holdings and percentage of interest attributable to each security holder, lender or beneficiary.
- (c) State name and address of every depository holding any of the assets of the company: Instruction: Answer "Yes" or "No" to the following questions. If "Yes" give particulars.
- (d) Has any person or company undertaken to act as a guarantor in relation to the financial or other undertakings of applicant?
- .....
- (e) Has a subrogation been executed by the creditor(s) in relation to loans owing by the applicant?
- .....
- (f) Is there any person or company whose name is not disclosed in the statement called for by (b) above who has any direct or indirect interest in the applicant, either beneficially or otherwise?

### B—CAPITALIZATION OF A PARTNERSHIP OR PROPRIETORSHIP:

Attach, marked as an exhibit to the application, a statement containing the information called for below with respect to the assets of the partnership or proprietorship, and demonstrate therein the degree of control (voting power) of each of the participants in the application.

- (i) Amount of paid-in capital \$.....
- (ii) Description of the assets:
- (iii) State name and address of every depository holding any of the assets:
- (iv) Source, amount and maturity date of any obligations owing by the partnership, if any:  
(Where applicable, give names and addresses of creditors)

**Instruction: Answer "Yes" or "No" to the following questions. If "Yes" give particulars.**

- (v) Has any person or company undertaken to act as a guarantor in relation to the financial or other undertakings of applicant?
- .....
- .....
- .....
- (vi) Has a subrogation been executed by the creditor(s) in relation to loans owing by the applicant? .....

(vii) Is there any person or company whose name is not disclosed above who has any interest in the applicant, either beneficially or otherwise? .....

Dated at ..... (name of applicant)

this ..... day of ....., 19.... By .....  
(signature of applicant, partner or officer)

.....  
(official capacity)

#### AFFIDAVIT

##### IN THE MATTER OF the *Commodity Futures Act*

Province of Ontario ) I, .....  
..... of ..... ) (name in full)  
TO WIT: ) of the .....  
in the County of ..... )

#### MAKE OATH AND SAY:

1. I am the applicant (or a partner or officer of the applicant) herein for registration and I signed the application.
2. The statements of fact made in the application are true.

SWORN before me at the ..... )  
in the ..... of ..... )  
this ..... day of ..... 19.... )  
.....  
(A Commissioner, etc.) (signature of deponent)

R.R.O. 1990, Reg. 90, Form 5.

#### Form 6

##### *Commodity Futures Act*

#### APPLICATION FOR REGISTRATION AS A NON-RESIDENT CARRYING BROKER

Application is made for registration under the *Commodity Futures Act* as a non-resident carrying broker.

The following statements of fact are made in respect thereof:

1. (a) Name of Applicant .....
- (b) Head Office Business Address (including postal code) .....  
.....  
.....  
Telephone No: .....
- (c) Agent for service in Ontario .....  
.....  
Address (including postal code) .....  
.....  
Telephone No: .....
- (d) Name of introducing broker .....

2. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant,
- (a) been registered in any capacity under the *Commodity Futures Act* of Ontario?
- .....
- .....
3. Is the applicant, or to the best of the applicant's information and belief is any affiliate of the applicant, now, or has any such person or company been,
- (a) registered or licensed in any capacity in any other province, state or country which required registration or licensing to trade in commodity futures contracts or commodity futures options?
- .....
- .....
- (b) registered or licensed in any other capacity in Ontario or any other province, state or country under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as a securities dealer, insurance agent, real estate agent, used car dealer, mortgage broker, etc.)
- .....
- .....
- (c) refused registration or a licence mentioned in 3 (a) or (b) above or has any registration or licence been suspended or cancelled in any category mentioned in 3 (a) or (b) above?
- .....
- .....
4. Is the applicant, or to the best of the applicant's information and belief is any affiliate of the applicant, now, or has any such person or company been,
- (a) a member of any commodity futures exchange, clearing house of a commodity futures exchange, association of commodity futures dealers or similar organization in any province, state or country?
- .....
- .....
- (b) refused membership in any commodity futures exchange, clearing house of a commodity futures exchange, association of commodity futures dealers or similar organization, in any province, state or country?
- .....
- .....
5. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant, operated under, or carried on business under, any name other than the name shown in this application?
- .....
- .....
6. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant, ever been,
- (a) convicted or presently have outstanding a charge or indictment under the law of any province, state or country, except minor traffic violations?
- .....
- .....
- Instruction: Question 6 (a) refers to all laws, e.g. Criminal, Immigration, Customs, Liquor, etc., of any province, state or country in any part of the world.
- (b) the defendant or respondent in any proceeding in any civil court in any jurisdiction in any part of the world wherein fraud was alleged?
- .....
- .....

- (c) at any time declared bankrupt, or made a voluntary assignment in bankruptcy? (If "Yes", give particulars and also attach a certified copy of discharge)
- .....
- .....

- (d) refused a fidelity bond? .....

#### AFFIDAVIT

#### IN THE MATTER OF the *Commodity Futures Act*

Province of Ontario

) I, .....  
) (name in full)

..... of .....

TO WIT:

) of the .....  
) in the County of .....

#### MAKE OATH AND SAY:

1. I am the applicant (or a partner or officer of the applicant) herein for registration and I signed the application.
2. The statements of fact made in the application are true.

SWORN before me at the .....

in the ..... of .....

this ..... day of ..... 19....

(A Commissioner, etc.)

(signature of deponent)

R.R.O. 1990, Reg. 90, Form 6.

#### Form 7

#### *Commodity Futures Act*

#### UNIFORM APPLICATION FOR REGISTRATION/APPROVAL

Canadian Securities and  
Commodity Futures Legislation

#### General Instructions

1. This form is to be used by every individual seeking registration or approval from a Canadian Securities Commission or similar authority and/or a self-regulatory organization, or submitting an application for registration or approval as a partner, director or officer of a dealer, broker or adviser to a Canadian Securities Commission or similar authority.
2. This form may also be used by any individual submitting an application for registration as a dealer, broker or adviser to a Canadian Securities Commission or similar authority.
3. All applicable questions must be answered. Failure to do so may cause delays in the processing of the application form.
4. This form and all attachments added thereto must be typewritten. Any form or attachment completed by any other means may be considered not properly filed.
5. All attachments pertaining to any question must be made exhibits to the form and each one must be so marked. All signatures must be originals. The Commissioner of Oaths before whom the application is sworn, as well as the applicant, is required to initial all attachments.
6. In completing the application, applicants should seek advice from an authorized officer of the sponsoring firm or from a legal adviser, if necessary.
7. Number of originally-signed copies of the form to be filed with the self-regulatory organization and/or Securities Commission or similar authority varies from province to province. If unsure of the procedure, please consult the Registration Department of the self-regulatory organization through which you are applying or the applicable Securities Commission, or similar authority.

1. APPLICANT:

Last Name		First, Second & Third Names	
Residential address (with postal code)		Area Code: Telephone:	
Address for service in province of registration (with postal code)		Social insurance number (not required for applications in Ontario)	
Present position in the firm		Commenced employment on Day      Month      Year	

Name	Area Code: Telephone:
Address where applicant will be working (street, city, province, postal code)	

**INSTRUCTION:** Check **ALL** applicable boxes to indicate the registration or approval requested. The “Types of Registration or Approval Requested” have the meaning attributed to them in the applicable securities act, commodity futures act, or regulation and in by-laws, rules and regulations of exchanges, the Investment Dealers Association of Canada and other self-regulatory organizations. Applicants filing for restricted registration should file under **OTHER**, specifying the nature of the restricted registration applied for.

<b>REGISTERED REPRESENTATIVE OR SALESPERSON REGISTRATION:</b>		<b>OTHERS:</b>
<input type="checkbox"/> Securities		<input type="checkbox"/> Partner
<input type="checkbox"/> Commodity Futures		<input type="checkbox"/> Director
<input type="checkbox"/> Commodity Futures Options		<input type="checkbox"/> Officer (title) .....
<input type="checkbox"/> Options		— Trading <input type="checkbox"/>
<input type="checkbox"/> Mutual Funds		— Non-Trading <input type="checkbox"/>
<input type="checkbox"/> Floor Trader—Securities <input type="checkbox"/>		— Counselling <input type="checkbox"/>
— Commodity Futures <input type="checkbox"/>		<input type="checkbox"/> Branch Manager
<input type="checkbox"/> Individual Member		<input type="checkbox"/> Director, Investor, or Officer of approved affiliated company (delete designation not applicable)
<input type="checkbox"/> Scholarship Plans		<input type="checkbox"/> Industry Investor
<input type="checkbox"/> Other (specify) .....		<input type="checkbox"/> Non-industry Investor
		<input type="checkbox"/> Portfolio Manager
		<input type="checkbox"/> Designated/Alternate Registered Options Principal
		<input type="checkbox"/> Designated/Alternate Registered Futures Principal
		<input type="checkbox"/> Designated/Alternate Registered Futures Option Principal
		<input type="checkbox"/> Other (specified) .....

**INSTRUCTION:** Check all appropriate boxes to indicate the Canadian Securities Commissions or similar authority and/or self-regulatory organizations with which the applicant is seeking registration or approval.

SECURITIES COMMISSIONS OR SIMILAR AUTHORITIES			
<input type="checkbox"/> Alberta	<input type="checkbox"/> New Brunswick	<input type="checkbox"/> Nova Scotia	<input type="checkbox"/> Quebec
<input type="checkbox"/> British Columbia	<input type="checkbox"/> Newfoundland	<input type="checkbox"/> Ontario	<input type="checkbox"/> Saskatchewan
<input type="checkbox"/> Manitoba	<input type="checkbox"/> Northwest Territories	<input type="checkbox"/> Prince Edward Island	<input type="checkbox"/> Yukon Territory

  

SELF-REGULATORY ORGANIZATIONS	
<input type="checkbox"/> Alberta Stock Exchange	<input type="checkbox"/> Toronto Stock Exchange
<input type="checkbox"/> Investment Dealers Association of Canada	<input type="checkbox"/> Vancouver Stock Exchange
<input type="checkbox"/> Montreal Exchange	<input type="checkbox"/> Winnipeg Commodity Exchange
<input type="checkbox"/> Toronto Futures Exchange	<input type="checkbox"/> Winnipeg Stock Exchange
	<input type="checkbox"/> Other (specify) .....

## 5. PERSONAL DESCRIPTION OF APPLICANT:

(A)

DATE OF BIRTH Day    Month    Year			PLACE OF BIRTH City		Province	Country	Sex
Height	Weight	Colour of eyes	Colour of hair	Name of spouse & nature of his/her employment			
Citizenship			If NOT a Canadian citizen, answer question 5 (B) below.				

(B)

Are you a permanent resident?	Number of years of continuous residence in Canada	Passport			
		Country	Place of Issue	Date of Issue	Number

## 6. PHOTOGRAPH:

**INSTRUCTION:** Attach hereto two copies of a black and white photograph, full face, showing a true likeness of the applicant as the applicant now appears and taken within the last 6 months; they must measure 2" x 2", be of passport quality and bear on the back the date on which the photographs were taken, the signature of the applicant and that of the Commissioner of Oaths or that of an officer, director, partner or branch manager of the sponsoring firm.

## 7. EDUCATION:

(A)

Instruction: State the last school attended in each level	Degree or Diploma	Date Obtained
High School or Secondary Level		
Post-Secondary, College CEGEP or University		
Professional Education		
Other		

Have you successfully completed:

	Yes	No	Exempt*	Date Completed
Canadian Securities Course	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Examination based on Manual for Registered Representatives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Partners/Directors/Officers Qualifying Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Canadian Investment Finance (course 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Part I	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Part II	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
F.C.S.I.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Chartered Financial Analyst Course	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Qualifying Examination for Registered Options Principal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Canadian Options Course	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Canadian Investment Funds Course	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
National Commodity Futures Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Canadian Commodity Futures Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Canadian Futures Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Commodity Supervisors' Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Branch Managers' Examination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	.....
Other (specify) .....				.....

\*If you have been granted exemption, attach full particulars.

(B) Have you ever applied for and been refused exemptions from any of the above listed examination requirements? (If so, give particulars as an attachment) .....

## 8. EMPLOYMENT HISTORY:

A) The following information constitutes full disclosure of your business activities, including any periods of self-employment and unemploy-

ment, for 10 years immediately prior to the date of this application, excluding any summer employment while a full-time student, but including all securities or commodities industry employment during and prior to the ten-year period.

Name and address of employer	Name and title of immediate supervisor	Nature of employment and duties of applicant	Reasons for leaving	FROM mo. yr.	TO mo. yr.
PRESENT:					
PREVIOUS:					

B)

Have you ever been discharged by an employer for cause? .....  
(If so, give particulars as an attachment).

9. RESIDENTIAL HISTORY: (give all home addresses for the past 10 years)

Include street, city, province & postal code	FROM mo. yr.	TO mo. yr.
PRESENT:		
PREVIOUS:		

10. REFERENCES:

Give three names as references, excluding relatives and persons associated with the sponsoring firm. References must include a bank or trust corporation at which you have an account (give account number)

Name	Firm Name	Business Address (with postal code) and Telephone (with area code)	Occupation

Account No. at reference bank or trust co.: .....

Note: Account No. need not be given if this form is accompanied by a reference from a bank or trust co. with which the applicant has an account.

ANSWER "YES" OR "NO" TO EACH OF QUESTIONS 11 TO 20 INCLUSIVE.  
IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES",  
COMPLETE DETAILS MUST BE ATTACHED BY WAY OF EXHIBIT.

11. CHANGE OF NAME:

**INSTRUCTION:** Name changes resulting from marriage, divorce, court order or any other process should be listed here giving appropriate dates.

Have you ever had, used, operated under, or carried on business under any name other than the name mentioned in Question 1 of this form, or have you ever been known under any other name?

.....

## 12. PRIOR REGISTRATION OR LICENSING:

- A) Are you now or have you ever been registered or licensed, or applied for registration or a licence in any capacity under any act or regulation thereof, regulating trading in securities, commodities or commodity futures contracts of any province, territory, state or country?

List all authorities with whom you were registered and the dates of registration. State whether the registration is currently in effect.

.....

.....

- B) Are you now, or have you ever been a partner, shareholder, director or officer of any company or of a partnership which has been registered or licensed, or is now registered or licensed (except as an issuer if you are or have been solely a shareholder) in any capacity under any act or regulation thereof, regulating trading in securities, commodities or commodity futures contracts of any province, territory, state or country?

- C) Are you now or have you ever been registered or licensed, or applied for registration or a licence, under any legislation which requires registration or licensing to deal with the public, in any capacity other than trading in securities, commodities or commodity futures contracts in any province, territory, state or country?

**QUESTIONS 13 TO 18 INSTRUCTION:** In answering Questions 13 to 18, and particularly Question 15, you may need assistance from an authorized officer of the sponsoring firm or from a legal adviser. Full details are required as attachments in respect of any question to which the applicant answers "yes". These details must include the circumstances, the relevant dates, the names of the parties involved and the final determination if known.

## 13. REFUSAL, SUSPENSION, CANCELLATION OR DISCIPLINARY MEASURE

- A) Have you ever been refused registration or a licence, or has your registration or licence been suspended or cancelled, under any act or regulation thereof, regulating trading in securities, commodities or commodity futures contracts of any province, territory, state or country?

- B) Are you now or have you ever been a partner, shareholder, director or officer of a company or of a partnership which has, during the time of your association with it, been refused registration (except a registration as an issuer if you are or have been solely a shareholder) or a licence, or whose registration has been suspended or cancelled under any act, or regulation thereof, regulating trading in securities, commodities or commodity futures contracts of any province, territory, state or country?

- C) Have you ever been refused registration or a licence, or has your registration or licence been suspended or cancelled, under any legislation which requires registration or licensing to deal with the public in any capacity other than trading in securities, commodities or commodity futures contracts in any province, territory, state or country?

- D) Have you been denied the benefit of any exemption from registration or licensing provided by any act or regulation thereof regulating trading in securities, commodities or any commodity futures contracts of any province, territory, state or country?

- E) Has any prior or current registration or licensing to deal or trade in securities, commodities or commodity futures contracts held by you or any partnership or company of which you were at the time of such event a partner, officer or director or holder of voting securities carrying more than 5 per cent of the votes carried by all outstanding voting securities ever been the subject of disciplinary action undertaken by any authority regulating or supervising trading in securities, commodities, or commodity futures contracts?

## 14. SELF-REGULATORY ORGANIZATIONS:

Have you or has any partnership or company of which you are or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities:

- A) Ever been a member of any stock exchange, commodities exchange, commodity futures exchange, association of investment dealers, investment bankers, brokers, broker-dealers, mutual fund dealers, commodity futures dealers, investment counsel, other professional association or any similar organization in any province, territory, state or country?

- B) Ever been refused registration or licensing or approval for membership or approval in any other capacity by/in any of the institutions or associations described in Question 14A?

- C) Ever been the subject of disciplinary action undertaken by any authority as described in question 14A?

## 15. OFFENCES UNDER THE LAW

**INSTRUCTION:** Offences under such federal statutes as the *Income Tax Act* (Canada) and the *Immigration Act* (Canada) constitute criminal offences and must be disclosed when answering this question. It should be noted that pleas or findings of guilt for impaired driving are *Criminal Code* (Canada) matters and must be disclosed. Where you have pleaded guilty or been found guilty of an offence, such offence must be reported even though an absolute or conditional discharge has been granted.

You are not required to disclose any offence for which a pardon has been granted under the *Criminal Records Act* (Canada) and such pardon has not been revoked. Under such circumstances, the appropriate response would be: "No".

If you are in doubt as to previous dealings you have had with law enforcement agencies and the applicability of this question with respect to such encounters, you should obtain the advice of an authorized officer of your sponsor or a legal adviser.

## A) Past Offences Involving Securities or Commodities—

Have you ever pleaded guilty or been found guilty under any law of any province, territory, state or country of any offence relating to trading in securities, commodities, commodity futures contracts or options or with the theft thereof, or with any related offence, or been a party to any proceedings taken on account of fraud arising out of any trade in or advice in respect thereof? .....

## B) Past Offences Involving Other Criminal Offences or Contraventions—

Have you ever pleaded guilty or been found guilty under any law of any province, territory, state or country for contraventions or other criminal offences not noted in A) above? .....

## C) Current Charges or Indictments—

Are you currently the subject of a charge or indictment, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in A) or B) above (see also instructions above)? .....

## D) Partnership or Company Offences or Current Charges or Indictments—

Has any partnership or company of which you are or were at the time of such event a partner, officer, director or a holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities, ever pleaded guilty or been found guilty, or is any such partnership or company currently the subject of a charge or indictment, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in A) or B) above (see also instructions above)? .....

## 16. CIVIL PROCEEDINGS

Has any claim been made successfully or, to your knowledge, is any claim pending in any civil proceeding before a court or other tribunal in any province, territory, state or country which was, or is, based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct? .....

## A) Against you? .....

B) Against any partnership or company of which you are or were at the time of such event, or at the time such proceedings were commenced, a partner, director, officer or holder of young securities carrying more than 5% of the votes carried by all outstanding voting securities? .....

## 17. BANKRUPTCY

A) Under the law of any province, territory, state or country have you ever:

(a) been declared bankrupt or made a voluntary assignment in bankruptcy? .....

(b) made a proposal under any legislation relating to bankruptcy or insolvency? .....

(c) been subject to or instituted any proceedings, arrangement or compromise with creditors including, without limitation, produced a declaration under the Quebec Voluntary Deposit of Salary Wages Law or had a receiver and/or manager appointed to hold your assets? .....

If yes, and if applicable, attach copy of any discharge, release or document with similar effect.

B) Has any partnership or corporation of which you are or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities ever:

(a) been declared bankrupt or made a voluntary assignment in bankruptcy? .....

(b) made a proposal under any legislation relating to bankruptcy or insolvency? .....

(c) been subject to proceedings under any legislation relating to the winding-up, dissolution or companies' creditors arrangements? .....

(d) been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver and/or manager appointed to hold its assets? .....

If yes, and if applicable, attach copy of any discharge, release or document with similar effect.

18. JUDGMENT OR GARNISHMENT:

Has any judgment or garnishment ever been rendered against you or is any judgment or garnishment outstanding against you, in any civil court in any province, state or country for damages or other relief in respect of a fraud or for any reason whatsoever? .....

19. SURETY BOND OR FIDELITY BOND

A) Have you ever applied for a surety bond or fidelity bond and been refused? .....

If yes, attach name and address of bonding company, and when and why the bond was refused.

B) Are you presently bonded? .....

20. BUSINESS ACTIVITIES

A) Will you be actively engaged in the business of the firm with which you are now applying and devote the major portion of your time thereto? .....

B) Are you engaged in any other business or have any other employment for gain except your occupation with the firm with which you are now applying? .....

If so, attach full details including the full name and address of the business, the nature of the business, your title or position and the amount of time you devote to the business. ....

C) Are you a partner, director, officer, shareholder or other contributor of capital of a partnership or of a company having as its principal business that of a broker, dealer or adviser in securities, commodities, commodity futures contracts or options other than the firm with which you are now applying? If so, attach full details. ....

21. A) State the number, value, class and percentage of shares or the amount of partnership interest you own or propose to acquire upon approval. If acquiring shares upon approval, state source, i.e. treasury shares, or if upon transfer, state name of transferor. ....

B) State the value of subordinated debentures or bonds of the firm to be held by you or any other subordinated loan to be made by you to the firm. ....

C) Are you or will you upon approval be the beneficial owner of the shares, bonds, debentures, partnership interest or other notes held by you? If no, state name, residential address and occupation of the beneficial owner. ....

CAUTION

FILING OF ANY FALSE INFORMATION OR FAILURE TO DISCLOSE FULL INFORMATION REQUIRED BY OR ON THIS APPLICATION MAY RESULT IN ITS REJECTION OR IN DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT AND/OR THE SPONSORING FIRM WITHIN THE PROVISIONS OF THE APPLICABLE SECURITIES AND/OR COMMODITY FUTURES LEGISLATION, REGULATIONS AND POLICY STATEMENTS OF THE SECURITIES REGULATORY AUTHORITIES AND WITHIN THE TERMS OF THE BY-LAWS, RULINGS, RULES AND/OR REGULATIONS OF ANY ONE OF THE SELF-REGULATORY ORGANIZATIONS TO WHICH THIS APPLICATION IS SUBMITTED, OR MAY RESULT IN A REFUSAL TO REGISTER THE APPLICANT.

CERTIFICATE AND AGREEMENT OF APPLICANT AND SPONSORING FIRM

The undersigned hereby certify that the foregoing statements are true and correct to the best of our knowledge, information and belief and hereby undertake to notify the self-regulatory organization in writing of any material change therein as prescribed by any by-law or rule of the respective self-regulatory organizations.

We agree that we are conversant with the by-laws, rulings, rules and regulations of the self-regulatory organizations listed in *Question 4*.

We agree to be bound by and to observe and comply with them as they are from time to time amended or supplemented, and we agree to keep ourselves fully informed about them as so amended and supplemented. We submit to the jurisdiction of the self-regulatory organizations and, wherever applicable, the Governors, Directors and committees thereof, and we agree that any approval granted pursuant to this application may be revoked, terminated or suspended at any time in accordance with the then applicable by-laws, rulings, rules and regulations. In the event of any such revocation or termination, the undersigned applicant agrees forthwith to terminate association with the undersigned sponsoring firm and thereafter not to accept employment with or perform services of any kind for any member or member house of the self-regulatory organizations or any approved affiliated company or other affiliate of any such member or member house, in each case if and to the extent provided in the then applicable by-laws, rulings, rules and regulations of the self-regulatory organizations. Our obligations above are joint and several.

We agree to the transfer of this application form, without amendment, to another of the self-regulatory organizations listed in Question 4 of this application form in the event that at some time in the future the undersigned applicant applies to such other self-regulatory organization.

The undersigned applicant has discussed the questions in this application and in particular Questions 15 and 16 with an officer or branch manager of this firm. The undersigned authorized officer is satisfied that the applicant fully understands the questions, and further certifies on behalf of the sponsoring firm that the applicant will be engaged as registered or approved.

The undersigned applicant acknowledges and consents that any of the self-regulatory organizations may obtain any information whatsoever from any source, as permitted by law in any jurisdiction in Canada or elsewhere.

Dated at ..... this ..... day of ..... 19.....

(Signature of Applicant)

(Name of Sponsoring Firm)

By .....

(Partner or Authorized Officer)

#### AFFIDAVIT

I, the undersigned applicant, do depose and say that I have read and understand the questions in this application form as well as the answers made by myself thereto and the Caution set out above, and that statements of fact made therein and in the attachments, if any, are true.

Sworn before me .....  
(Commissioner of Oaths, etc.) (Signature of Deponent)

at the city of ....., Province of .....

this ..... day of ..... 19.....

The Provinces of Saskatchewan & Manitoba require this affidavit to be sworn before a notary public or barrister or solicitor where the applicant is outside the province at the time of application.

It is an offence under applicable Canadian securities and commodity futures legislation to file an application which contains a statement that, at the time and in light of the circumstances in which it is made, is false or misleading, or which fails to state any material fact.

R.R.O. 1990, Reg. 90, Form 7.

#### Form 8

#### Commodity Futures Act

#### CERTIFICATE OF INTENDED EMPLOYER

(To be completed by the intended employer and submitted separately in support of every application for registration as a salesperson made in Form 7 and every application for amendment of registration as a salesperson made in Form 14 on transfer from the employ of one registered dealer to another).

1. (a) Name of intended Employer

- (b) Business Address in Ontario (including postal code)

2. (a) Name of intended Employee-Applicant in full

- (b) Residence Address (including postal code)

3. Code or symbol, if any, to be used to identify intended Employee-Applicant in written confirmations of trade

To the Director:

On the basis of due and diligent inquiry made of the background of the applicant named above and other information available, the undersigned believes this person to be of good character and reputation and either has successfully completed or has the qualifications to undertake and successfully complete one of the courses of study approved by the Commission to which end all reasonable assistance will be furnished by us.

And I request that the application be granted.

Dated at .....  
 this ..... day of ....., 19.....  
 (Name of Dealer)  
 (Signature of proprietor, partner, officer)  
 By .....  
 (Official Capacity)

R.R.O. 1990, Reg. 90, Form 8.

**Form 9***Commodity Futures Act*

## APPLICATION FOR RENEWAL OF REGISTRATION AS DEALER OR ADVISER

Application is made for renewal of registration under the *Commodity Futures Act* as .....

in the category of .....

and the following statements of fact are made in respect thereof:

1. Name of Applicant .....

2. Head Office Business Address (including postal code)  
 .....

Telephone No. ....

3. Have there been any changes which would make the information given in the last application for registration, amendment of registration or renewal of registration made under the *Commodity Futures Act* and the regulations false or misleading?

(Answer "Yes" or "No") .....

(If answer is "Yes", attach, and mark as an exhibit to this application, a statement of such changes giving full particulars using the same numbering for each item of change as it appears in the application form in which the information was contained.)

Dated at .....  
 this ..... day of ....., 19.....  
 (Name of Applicant)

By .....  
 (Signature of applicant, partner or officer)

.....  
 (Official Capacity)

**AFFIDAVIT**IN THE MATTER OF the *Commodity Futures Act*

Province of Ontario

I, .....  
 (name in full)

..... of .....

of the .....

in the ..... of .....

**MAKE OATH AND SAY:**

1. I am the applicant (or a partner or officer of the applicant) herein for renewal of registration and I signed the application for renewal of registration.
2. The statements of fact made in the application for renewal of registration are true.

SWORN before me at the ..... )  
 in the ..... of ..... )  
 this ..... day of ....., 19..... )  
 ..... )  
 (A Commissioner, etc.) ) ..... (Signature of deponent)

R.R.O. 1990, Reg. 90, Form 9.

**Form 10***Commodity Futures Act*

NOTE: Should any space be insufficient for your answers, a statement may be attached and marked as an exhibit cross-referencing each statement to the item to which it pertains provided it is initialled by the informant and the Commissioner taking the affidavit.

APPLICATION FOR RENEWAL OF RESIGTRATION AS SALESPERSON OR AS A PARTNER OR OFFICER OF A REGISTERED DEALER OR REGISTERED ADVISER

Application is made for renewal of registration under the *Commodity Futures Act* as

(NOTE: As officer state office occupied; if also director so state).

1. (a) Name of registered dealer or registered adviser

- (b) Name of Applicant in full

- (c) Residence Address (including postal code)

Telephone No. ....

2. Have there been any changes in the information previously given by you in your last application for registration or for renewal of registration filed with the Commission?

(Answer "Yes" or "No") .....

3. If the answer to item 2 is "Yes", give full particulars of every change, using the same numbering for each item of change as it appears in the application form in which the information was contained.

4. If no photograph supplied within the last 5 years, attach two copies, full face, size 2 × 2 inches bearing on the back your signature and that of the registered dealer or registered adviser.

Dated at ..... this ..... day of ....., 19.....

.....  
 (signature of applicant)

**AFFIDAVIT****IN THE MATTER OF the *Commodity Futures Act***

Province of Ontario

) I, .....  
 ) (name in full)

..... of ..... )  
 ) of the .....  
 ) in the county of .....

To WIT: )

MAKE OATH AND SAY:

1. I am the applicant herein for renewal of registration and I signed the application.
2. The statements of fact made in the application are true.

SWORN before me at the ..... )  
 in the ..... of ..... )  
 this ..... day of ....., 19..... )  
 ..... )  
 (A Commissioner, etc.) ) (signature of deponent)

## REQUEST OF EMPLOYER

(To be completed in support of every application made for renewal of registration as a salesperson)

The undersigned employer hereby requests that the registration of the above applicant be renewed.

Dated at ..... (Name of Dealer)  
 this ..... day of ....., 19.....  
 By ..... (Signature of proprietor, partner or officer)  
 ..... (official capacity)

R.R.O. 1990, Reg. 90, Form 10.

## Form 11

## Commodity Futures Act

## NOTICE TO SUBMIT TO EXAMINATION UNDER SECTION 28 OF THE ACT

Province of Ontario ) IN THE MATTER OF the *Commodity Futures Act*  
 ..... of ..... ) AND  
 ) IN THE MATTER OF .....  
 )  
 )

To: .....

TAKE NOTICE THAT you are required to attend at .....  
 ..... on ..... day, the ..... day of ....., 19.....,  
 at the hour of ..... o'clock in the ..... noon, and so from day to day to give further information or material and to submit to  
 examination under oath by a person designated by the Director on ..... day, the ....., day of  
 ....., 19....., pursuant to section 28 of the *Commodity Futures Act*.

Dated at ....., this ..... day of ....., 19.....  
 ..... (signature)

R.R.O. 1990, Reg. 90, Form 11.

## Form 12

## Commodity Futures Act

## APPLICATION FOR AMENDMENT OF REGISTRATION AS DEALER OR ADVISER

Instruction: Applicants for amendment of registration as NON-RESIDENT CARRYING BROKER shall complete only clauses (a) and (b) of item 1.

Name of Registrant .....

Application is made for amendment to our existing registration as:

.....  
 .....

under the *Commodity Futures Act* and the following statements of fact are made in respect thereof.

1. Attached hereto and marked as an exhibit to the application is a statement of particulars of any change in,
  - (a) the name of the applicant,
  - (b) address for service or any business address,
  - (c) partners, officers or directors and the reason for any such person's resignation, dismissal, severance or termination of employment or office,
  - (d) holders of voting securities of the applicant,
  - (e) salesperson's employed and the reason for the termination of any salesperson's employment,
  - (f) branch offices in Ontario, or
  - (g) the person in charge of any branch office in Ontario.
2. Attached hereto and marked as an exhibit to the application is an Application for Registration Information Statement in Form 7 from each new partner or officer for whom registration to trade or to act as an adviser on behalf of the applicant is sought.
3. Attached hereto and marked as an exhibit to the application is a statement of changes which have occurred in the financial structure and control of the applicant which would make the information previously given by the applicant pursuant to this or any previous regulation, false, or misleading.

Dated at ..... (name of applicant)  
 this ..... day of ....., 19.....  
 By ..... (Signature of applicant, partner or officer)  
 ..... (official capacity)

#### AFFIDAVIT

##### IN THE MATTER OF the *Commodity Futures Act*

Province of Ontario ) I, .....  
 ..... of ..... ) (name in full)  
 ..... ) of the .....  
 ..... ) in the ..... of .....  
 ..... )  
 ..... ) MAKE OATH AND SAY:

1. I am the applicant (or a director or officer of the applicant) for amendment to registration, and I signed the application.
2. The statements of fact made in the application for amendment to the registration are true.

SWORN before me at the ..... )  
 in the ..... of ..... )  
 this ..... day of ....., 19..... )  
 ..... )  
 (A Commissioner, etc.) ) (signature of deponent)

R.R.O. 1990, Reg. 90, Form 12.

#### Form 13

##### *Commodity Futures Act*

#### APPLICATION FOR AMENDMENT OF REGISTRATION AS SALESPERSON

Name of Registrant .....

Application is made for amendment to my existing registration as salesperson under the *Commodity Futures Act* and the following statements of fact are made in respect thereof.

1. Attached hereto and marked as an exhibit to the application is a statement of particulars with respect to:

- (a) any change in address for service or any business address,
- (b) termination of employment with a registered dealer, or
- (c) commencement of employment with a registered dealer.

2. Attached hereto and marked as an exhibit to the application is a Certificate of Intended Employer in Form 8.

Dated at .....

this ..... day of ....., 19.....

(Signature of Applicant)

R.R.O. 1990, Reg. 90, Form 13.

## Form 14

### Commodity Futures Act

### INFORMATION STATEMENT

[NOTE: This form consists of two parts, a brief introduction and the statement itself. The first part should appear on a separate sheet, with the second part attached.]

#### PART I

#### TO: PROSPECTIVE COMMODITY FUTURES CUSTOMERS

For the speculator, futures trading is a high risk activity in which it may not be possible to limit the extent of potential liability. Before you buy or sell a contract you should be certain you can afford to lose not only the money you put up initially but additional money as well.

Attached is an information statement on certain aspects of futures trading. The following are among the points that you should consider in studying this statement:

1. *Financial Exposure*—You should fully understand the description of margin arrangements and of how you can be required to put up additional money even after your initial trade. See the section headed "Risk".
2. *Settlement Procedures*—Once you have made a trade, you cannot sit back and treat it as a long-term investment. You must arrange to meet margin calls. And before the end of the contract term you must arrange an offsetting transaction, if you want to avoid having to settle by making or taking physical delivery. See the section headed "Settlement of Contracts".
3. *Use of Funds*—Money you deposit with a dealer as margin may earn interest or be used by the firm in its business and you should be aware of the firm's policy as to whether it will pay you interest on this money. Also, if the value of the contract moves in your favour, money will be credited by the clearing house and you should be aware of your dealer's policy as to whether it will permit you to withdraw any amounts credited to it when the contract moves in your favour. These policies, discussed under "Interest on Customer's Balance" and "Disbursement of Funds During Life of Contract" can have a significant impact on the economic results of your trading.

*These are not the only parts of the attached material that are important. You should study the material carefully, and ask any questions about it that may occur to you, before you enter your first transaction.*

(Sign name of firm)

#### PART II

### SUMMARY DESCRIPTION OF COMMODITY FUTURES TRADING

#### NATURE OF THE CONTRACTS

1.01 When you trade in commodity futures contracts you are entering contracts to make or take delivery of a specified quantity or quality, grade or size of a commodity during a designated futures month at a price agreed upon when the contract is entered into on your behalf on a commodity futures exchange.

#### MARGIN

1.02 Each commodity futures exchange requires its members to obtain mandatory minimum margin from customers for whom the exchange members act. Many commodity futures exchanges set minimum margin requirements on the basis of a two tier system which is comprised of an "initial margin" requirement and a "maintenance" level. "Initial margin" is the original deposit required, the earnest money when the contract is entered into. If the market price moves against the customer's position causing the margin on deposit to fall to or under a prescribed level called "maintenance" the customer will be required to furnish "variation margin" or additional funds to restore margin on deposit to initial margin. Other commodity futures exchanges set minimum margin requirements on the basis of a single rate which must be deposited when the contract is entered into and which must be maintained at all times while the contract position remains open. The minimum initial margin is thus in practice equal to the maintenance level. Under both systems margin is calculated at the end of each day and more frequently during active markets. When variation margin is required it must be furnished immediately.

## DAILY PRICE LIMITS

1.03 Commodity futures exchanges also impose maximum daily permissible price changes in each commodity—"daily price limits"—certain amounts above or below the previous day's closing price, beyond which limits, no trades may be affected.

1.04 The reason for such limits is to prevent sudden extreme price movements. However, the result can be days elapsing before a trading level is found. The loss to a trader on the wrong side of the market and seeking to offset the trader's contract can be substantial.

## SETTLEMENT OF CONTRACTS

1.05 Only a very small proportion of commodity futures contracts are, in fact, settled through actual delivery of a commodity. Instead, they are usually settled by entering an opposite or offsetting contract. To settle a contract in which a certain amount of a particular commodity for a given delivery month was bought, the buyer subsequently contracts to sell a like amount of that commodity for the same delivery month. To settle a contract in which a commodity was sold, the seller buys an equal amount. Any difference between the price at the time the original contract was made and the price at the time the liquidating or offsetting contract is entered into is settled in cash.

## RISK

2.01 The risk of loss in commodity futures trading is substantial. You should, therefore, carefully consider whether such trading is suitable for you in light of your financial condition, objectives and temperament. In considering whether to trade, you should be aware of the following:

- (1) You may sustain a total loss of the initial margin funds and any additional funds that you deposit with your broker to establish or maintain a position in the commodity futures market. If the market moves against your position, you may be called upon by your broker to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the prescribed time, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.
- (2) Under certain market conditions, you may find it difficult or impossible to liquidate a position. This can occur, for example, when the market makes a "limit move".
- (3) Placing contingent orders, such as "stop-loss" or "stop-limit" order, will not necessarily limit your losses to the losses to the intended amounts, since market conditions may make it impossible to execute such orders.
- (4) A "spread" position may not be less risky than a simple "long" or "short" position.
- (5) The high degree of leverage that is often obtainable in futures trading because of the small margin requirements can work against you as well as for you. The use of leverage can lead to large losses as well as gains.
- (6) As most transactions are made in foreign currencies the risk you assume includes those related to currency fluctuations.
- (7) In the event of the bankruptcy of a dealer it is probable that you would merely have, as to your claim against funds deposited as margin, the status of an unsecured creditor whether or not such funds were segregated under the *Commodity Futures Act*. You would then participate in available assets on a proportional basis with other unsecured creditors.

2.02 This brief statement cannot, of course, disclose all the risks and other significant aspects of the commodity markets. You should therefore carefully study and become familiar with all aspects of commodity futures trading.

## MARGIN

[The following two paragraphs may be modified to describe, briefly and clearly, the policy of the particular dealer if it differs from that described.]

3.01 ..... generally requires from its customers more margin than  
(Name of Dealer)

the minimum amounts prescribed by a commodity exchange. When variation margin is required from the customer the amount deposited must restore margin on deposit to the original deposit required by the firm.

3.02 In lieu of cash, margin requirements may be met by the deposit, in denominations of not less than \$10,000, of Treasury Bills issued by the Government of Canada or by the Government of the United States. Since a Treasury Bill is sold at a discount to mature at par, interest will accrue to the bearer.

## TRANSFER OF FUNDS BETWEEN CUSTOMER'S BALANCE

4.01 If you also maintain a securities account, ..... shall, unless you  
(Name of Dealer)

direct otherwise, transfer free funds between accounts if such transfer is necessary to reduce or eliminate a debit balance of \$5,000 or more. Free funds may otherwise be transferred between accounts only if the transfer is made in accordance with a written agreement between us.

[If the customer is asked to sign such an agreement, a brief and clear summary of its terms should be added here.]

## INTEREST ON CUSTOMER'S BALANCE

5.01 Funds deposited to meet margin requirements and customers' funds in excess of margin requirements, including funds representing equity gains on contracts entered into on behalf of customers which have been paid to ..... while the contract is still open may be used by  
(Name of Dealer)

..... in its business. ....  
(Name of Dealer) (Name of Dealer)

does/does not [use alternative which is applicable] pay interest to the customer on these funds.

[This section may be modified to describe, briefly and clearly, the policy of the particular dealer in respect of payment of interest on credit balances if it differs from that described.]

## DISBURSEMENT OF FUNDS DURING LIFE OF CONTRACT

6.01 ..... does/does not [use alternative which is applicable]  
(Name of Dealer)

permit a customer to withdraw equity gains on contracts entered into on the customer's behalf and paid out to .....  
..... while the contract is still open.  
(Name of Dealer)

[This section may be modified to describe, briefly and clearly, the policy of the particular dealer if it differs from that described.]

## COMMISSIONS AND OTHER TRANSACTION COSTS

## ACKNOWLEDGEMENT

I acknowledge having received an Information Statement dated ..... prior to  
the opening of my account with .....  
(Name of Registrant)

Dated: .....

Account No.: .....  
(Signature of Customer)

## NOTES AND INSTRUCTIONS

A copy of the form of Information Statement and each amendment thereto shall be filed by the registrant with the Commission.

## Paragraphs

3.01 and 3.02—These paragraphs need only be included in an Information Statement furnished to its prospective customers by a registered dealer.

Paragraph 4.01—This paragraph need only be included in an Information Statement prepared by a registered dealer who is also registered as a dealer under the *Securities Act*.

Paragraph 5.01—This paragraph need only be included in an Information Statement prepared by a registered dealer.

Paragraph 6.01—This paragraph need only be included in an Information Statement prepared by a registered dealer.

Paragraph 7.01—Furnish details concerning commissions and other transaction costs. Any attached schedule is to be referred to here as forming part of this Information Statement.

There should be a statement forming part of the text at paragraph 7.01 or of any attached schedule that the commissions and other transaction costs detailed are effective as at the date of the opening of the customer's account and may be subject to change. The statement should advise the customer that the firm will furnish details of any such changes on request.

Acknowledgement—The acknowledgment is to be executed in duplicate by the customer and a copy is to be retained by the registrant.

R.R.O. 1990, Reg. 90, Form 14.

## Form 15

## Commodity Futures Act

SUMMARY DISCLOSURE STATEMENT  
EXCHANGE TRADED COMMODITY FUTURES OPTIONS

Every summary disclosure statement relating to exchange traded commodity futures options shall include:

- (1) The following boldface statements in substantially the following form in ten point type on the first page:

Before you trade in commodity futures options, you should carefully read this statement. This is important because of the particular risks involved.

If you plan to buy an option, you should realize that you will pay both a premium and a commission. The premium compensates the seller, or writer, of the option for the risk the seller or writer assumes; the commission compensates the broker who handles the transaction for you. Accordingly, if you are to avoid a loss the price of the commodity must—before the end of the option period—rise sufficiently that the consequent increase in the price of the underlying futures contract will absorb both the premium and the commission.

If you plan to sell (i.e., write) an option, you will be obligated to provide a futures contract to cover the option should the purchaser of the option exercise. If you write an option and do not own the underlying futures contract, there is no limit on your possible loss, which is determined entirely by the amount of the rise in the price of the commodity and the underlying futures contract.

NO SECURITIES COMMISSION OR SIMILAR AUTHORITY IN CANADA HAS IN ANY WAY PASSED UPON THE MERITS OF THE COMMODITY FUTURES OPTIONS DESCRIBED HEREIN AND ANY REPRESENTATION TO THE CONTRARY IS AN OFFENCE.

- (2) A statement to the effect that:

- (i) Specific market movements of the commodity futures contracts underlying the commodity futures options cannot be accurately predicted,
- (ii) The writer of a call option who does not own the commodity futures contract required to be delivered upon exercise of the option is subject to risk of loss should the price of the underlying commodity futures contract increase by an amount in excess of the premium, less transaction costs,
- (iii) The writer of a call option who owns the commodity futures contract underlying the option is subject to the full risk of the writer's underlying position; in exchange for the premium, so long as the writer remains obligated under the option contract, the writer has given up an opportunity for gain resulting from an increase in the price of the underlying commodity futures contract above the price at which the option may be exercised,
- (iv) The writer of a put option is subject to risk of loss should the price of the underlying commodity futures contract decrease by an amount in excess of the premium, less transaction costs;

- (3) A description of the commodity futures options being offered including:

- (i) The nature and type of the options and the manner in which they are traded,
- (ii) The commodity futures contracts underlying the options,
- (iii) The total quantity and quality of the commodities which are the subject of the underlying commodity futures contract,
- (iv) The duration of the option,
- (v) A general description of the elements which may comprise the purchase price to be charged including the premium commissions, costs, fees and other charges as well as the method by which the premium is established,
- (vi) The services to be provided for the separate elements comprising the purchase price,
- (vii) A general description of any and all costs in addition to the purchase price which may be incurred by an option holder if the commodity futures option is exercised, including, but not limited to commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred,
- (viii) The procedural requirements for exercise of the option being offered,
- (ix) A clear explanation of any force majeure clause contained in the option, and
- (x) A general description of any material risks involved in the option transactions not included in the statements required by item 2.

- (4) A general description of the commodity futures exchange on which the options are traded, including the operation of the clearing mechanism and an explanation of any exchange or clearing house guarantees; and

- (5) If the commodity futures option is incapable of being liquidated by an offsetting transaction on or subject to the rules of the commodity futures exchange on which it is traded, a statement to the effect that,

- (i) the price of the commodity futures contract underlying the option must either rise above or fall below (as the case may be) the striking price by an amount in excess of the sum of the premium and all other costs incurred in entering into and exercising the commodity futures option in order for the option customer to realize a profit on the option transaction, and
- (ii) an option customer will be unable to sell any option purchased in any market to recover any of the purchase price, but rather may only liquidate by exercising an option before the expiration date of the option.

- (6) A clear explanation of the effect of any foreign currency fluctuations with respect to the commodity options being offered.

(7) A form of acknowledgement in substantially the following form:

I acknowledge having received a Summary Disclosure Statement dated ..... prior  
to the opening of my account with .....  
(Name of Dealer)

Dated .....

Account No. ....  
(Signature of Customer)

Instruction: The acknowledgement is to be executed in duplicate by the customer and a copy is to be retained by the dealer.

R.R.O. 1990, Reg. 90, Form 15.

**Form 16**

*Commodity Futures Act*

**ENDORSEMENT OF WARRANT**

Province of Ontario )  
..... )  
(territorial jurisdiction)

Pursuant to subsection 58 (1) of the *Commodity Futures Act* and pursuant to application this day made to me, I hereby authorize the execution of this warrant within the said territorial jurisdiction.

Dated this ..... day of ....., 19....., at .....

.....  
(a Provincial Judge or Justice in  
and for the Province of Ontario)

R.R.O. 1990, Reg. 90, Form 16.

